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The Magisterial Synopsis.

PART II.

INDICTABLE OFFENCES.

CHAP. I. THE LAW AND PRACTICE OF PROCEDURE IN GENERAL.

" II. A SYNOPSIS OF INDICTABLE OFFENCES AT COMMON LAW AND BY STATUTE.

CHAPTER I.

THE LAW AND PRACTICE OF PROCEDURE IN GENERAL.

Preliminary Observations.

THE law and practice of procedure before justices of the peace out of quarter sessions, with respect to indictable offences, antecedent to and on the preliminary examination and committal of accused persons for trial, are regulated principally by Jervis's Act, 11 & 12 Vict. c. 42, and a few provisions in the acts of parliament giving cognizance of the offences. That act repealed the previous statutes on the subject.

11 & 12 Vict. c. 42.

The preamble of the 11 & 12 Vict. c. 42, recites, that "it "would conduce much to the improvement of the administra- "tion of criminal justice within *England* and *Wales*, if the "several statutes and parts of statutes relating to the duties "of her Majesty's justices of the peace therein, with respect "to persons charged with indictable offences, were consoli- "dated, with such additions and alterations as may be deemed "necessary, and that such duties should be clearly defined by "positive enactment;" — and the statute applies, without exception, to "all cases where a charge or complaint shall be "made before any one or more of her Majesty's justices of

What 11 & 12 Vict. c. 42 applies to.

Sect. 1.

"the peace for any county, riding, division, liberty, city, "borough or place within *England* or *Wales*, that any person "has committed, or is suspected to have committed *any treason*, "*felony or indictable misdemeanor, or other indictable offence* "*whatsoever*" 1 (sect. 1).

Divisions of the practice.

The practice and procedure may be conveniently arranged under the following heads:—

SECT. I. PREFERRING THE CHARGE.
II. THE PROCESS TO ISSUE AGAINST OFFENDERS, THE EXTRADITION OF CRIMINALS, &c.
III. REMANDING OR BAILING ACCUSED BEFORE OR DURING EXAMINATION.
IV. COMPELLING WITNESSES' ATTENDANCE, &c.
V. THE PRELIMINARY EXAMINATION AND COMMITTAL OF ACCUSED.
VI. BINDING OVER PROSECUTOR AND WITNESSES, &c.
VII. BAILING ACCUSED AFTER EXAMINATION.
VIII. COSTS ATTENDING THE PROSECUTION, &c.

SECT. I.—PREFERRING THE CHARGE.

Time for commencing prosecutions.

The only instances of the time of prosecution for an indictable offence being limited seem to be by the act related to the training to the use of arms, 60 Geo. 3 & 1 Geo. 4, c. 1, s. 7; the Night Poaching Act, 9 Geo. 4, c. 69, s. 4; the Riot Act, 1 Geo. 1, st. 2, c. 5, s. 8; the Bribery at Elections Act, 17 & 18 Vict. c. 102, s. 14; the Customs Act, 16 & 17 Vict. c. 107, s. 303; the Marriage and Registration Act, 6 & 7 Will. 4, c. 85, s. 41; and as to Fraudulent Trade Marks, 25 & 26 Vict. c. 88, s. 18. By the first act the prosecution must be commenced within six calendar months; by the second and third within twelve calendar months, and by the subsequent acts within three years after the offence committed: 2 in other cases the charge may be

1 As to the particular offence which must be prosecuted in particular jurisdictions, see Vol. I. pp. 21—28. The provisions of 11 & 12 Vict. c. 42, are cumulative, and therefore where a special mode of proceeding is pointed out with respect to certain offences, for instance, keeping a disorderly house, the non-repair of a highway, &c., it must be followed, if not inconsistent with this later act of 11 & 12 Vict. c. 42.

2 The laying the information or apprehending the accused would be commencing the prosecution (see *R.* v. *Brooks et al.*, 1 Den. C. C. 217; 2 C. & K. 402; 2 Cox, C. C. 436); but in *Reg.* v. *Hull*, 2 F. & F. 16, Pollock, C. B., held that issuing a warrant of apprehension is not a com-

preferred at any time after the commission of the offence; but any delay in doing so should be satisfactorily explained.

Place of offence.

As to the place where the offence was committed, the general rule is, that the offences must be inquired of in the county or district in which they arose by justices of that county or district; but this can hardly be said practically to apply often to many cases, since there are so many exceptions which give justices jurisdiction when the offences are indictable, viz.:—

Justices may grant a warrant for offences out of their jurisdiction, if the person charged be within it (11 & 12 Vict. c. 42, s. 1, *post*, p. 893):

Also for offences at sea or abroad, and commit for trial (Id. s. 2, *post*, p. 903):

Also may hear any charge committed in another jurisdiction in England, if the offender is within the justices' jurisdiction (Id. s. 22):

Also for treason or any felony in the colonies (6 & 7 Vict. c. 34, and 16 & 17 Vict. c. 118):

Also for certain offences in France, America, or Denmark, with which we have treaties, or in other foreign states with which we may hereafter have treaties (see *post*, pp. 919, 920):

Also for offences within 500 yards [measured in the direct line, *Reg.* v. *Wood*, 5 Jurist, 525] of the boundary of the justices' jurisdiction, or begun in another county and completed in the justices' jurisdiction (7 Geo. 4, c. 64, s. 12, paragraph No. 18, Vol. I. p. 22):

Also for offences during a journey or a voyage, if the carriage or vessel passed through the justices' jurisdiction (Id. s. 13, paragraph No. 19, Vol. I. p. 22):

Also for murder, &c. abroad, if the offender is within the justices' jurisdiction (24 & 25 Vict. c. 100, s. 9, *post*, p. 903):

Also for certain offences partly in England and partly out of it (Id. s. 10, *post*, p. 904):

And a variety of other instances applicable to special crimes and offences, for which see paragraph No. 26, Vol. I. pp. 23—25.

22 & 23 Vict. c. 17.

In what cases indictments cannot be preferred without a preliminary inquiry before justices; Sect. 1.

In all cases,—except those provided by the act known as Lord Campbell's Vexatious Indictments Act ["An Act to prevent Vexatious Indictments for certain Misdemeanours"], 22 & 23 Vict. c. 17, *infra*, as amended by "The Criminal Law Amendment Act, 1867," 30 & 31 Vict. c. 35, sect. 1, p. 877, —an indictment may be preferred for the offence at the court

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mencement of proceedings within 9 Geo. 4, c. 69, s. 4. See also *Reg.* v. *Parker*, 1 Leigh & Cave, C. C. 459; 10 Law T., N. S. 463.

having jurisdiction to try it, without a previous investigation having taken place before justices. The 22 & 23 Vict. c. 17, by sect. 1, enacts,—

"After the first day of September, 1859, no bill of indictment for any of the offences following, viz.—

Perjury,
Subornation of perjury,
Conspiracy,
Obtaining money or other property by false pretences,
Keeping a gambling house,
Keeping a disorderly house, and
Any indecent assault,

"shall be presented to or found by any grand jury, unless the "prosecutor or other person presenting such indictment has "been bound by recognizance to prosecute or give evidence "against the person accused of such offence, or unless the "person accused has been committed to or detained in cus-"tody, or has been bound by recognizance to appear to answer "to an indictment to be preferred against him for such offence, "or unless such indictment for such offence, if charged to "have been committed in *England*, be preferred by the direc-"tion or with the consent in writing of a judge of one of "the superior courts of law at *Westminster*, 3 or of her "Majesty's attorney-general or solicitor-general for *England*, "or unless such indictment for such offence, if charged to "have been committed in *Ireland*, be preferred by the direc-"tion or with the consent in writing of a judge of one of the "superior courts of law in *Dublin*, or of her Majesty's attorney-"general or solicitor-general for *Ireland*, or (in the case of an "indictment for perjury) by the direction of any court, judge

or without consent of a judge, &c.

3 It is sufficient if this consent is given in writing in any informal way; and no previous summons or notice to the party or even an affidavit of the facts is necessary (*Reg.* v. *Bray*, 32 L. J. (N. S.) M. C. 11; 7 Law T., N. S. 248). See also *Knowlden* v. *Reg.*, 33 L. J. (N. S.) M. C. 219; 10 Law T., N. S. 691, in which it was held that it is not necessary that the performance of any of the conditions in this act should be averred on the face of the indictment, or proved before the petty jury. If a count for any of these offences has been added to an indictment without leave and found by the grand jury, that count should be quashed as no evidence was admissible (*Reg.* v. *Fuidge*, 33 L. J. (N. S.) M. C. 74; 1 Leigh & Cave, C. C. 390). See also the 30 & 31 Vict. c. 35, s. 1, *post*, p. 877, amending the 22 & 23 Vict. c. 17, as to the counts which may be inserted in the indictment, &c. See *Reg.* v. *Heane*, 33 L. J. (N. S.) M. C. 115, as to what offences are "perjury" within this act, and *Ex parte Wason*, 38 L. J. (N. S.) Q. B. 302, what is a "conspiracy."

"or public functionary authorized by an act of the session "holden in the fourteenth and fifteenth years of her Majesty, "chapter one hundred, to direct a prosecution for perjury" [*i.e.*, s. 19, *ante*, Vol. I., p. 91]. These provisions have been explained by 30 & 31 Vict. c. 35, s. 1, *infra*.

22 & 23 Vict. c. 17.

By 22 & 23 Vict. c. 17, s. 2,—"That where any charge or "complaint shall be made before any one or more of her "Majesty's justices of the peace that any person has com-"mitted any of the offences aforesaid within the jurisdiction "of such justice, and such justice shall refuse to commit or to "bail the person charged with such offence to be tried for the "same, then, in case the prosecutor shall desire to prefer an "indictment respecting the said offence, it shall be lawful for "the said justice and he is hereby required to take the recog-"nizance of such prosecutor to prosecute the said charge or "complaint, and to transmit such recognizance, information "and depositions, if any, to the court in which such indict-"ment ought to be preferred, in the same manner as such "justice would have done in case he had committed the person "charged to be tried for such offence." [4] By sect. 18 of "The Debtors Act, 1869," 32 & 33 Vict. c. 62, every misdemeanor therein enacted is to "be deemed to be an offence "within and subject to the provisions of the act 22 & 23 Vict. "c. 17;" but this enactment contains, apparently in error, no reference to or incorporation of the amending act of 30 & 31 Vict. c. 35, *infra*; and being the later in point of date, it is doubtful whether the provisions of 30 & 31 Vict. c. 35, apply to offences under the Debtors Act. (See *Reg.* v. *Bell*, 12 Cox, C. C. 37, M. Smith, J.)

Justice to bind over prosecutor to prosecute if he desire it.

Offences under Debtors Act, 1869.

The 30 & 31 Vict. c. 35, after reciting that "it is found "that delay and inconvenience are frequently caused by the "provisions contained in the first section of the act 22 & 23

30 & 31 Vict. c. 35, s. 1.

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[4] In *Ex parte Wason*, 38 L. J. (N. S.) Q. B. 302, it was held that the magistrate is not bound to take this recognizance of the prosecutor if the information or complaint does not charge one of the indictable offences specified in the statute. There is no time fixed in the act for entering into this recognizance, but it should be within a reasonable time after the dismissal of the charge by the justice, and, of course, before the sitting of the court at which the accused would have been sent for trial, if he had been committed or held to bail. *Vide* Form of Recognizance and Indorsement on Depositions, No. 70, Oke's "*Formulist*," 6th ed. p. 500. The prosecutor must then either go on with the prosecution or have his recognizance forfeited, as it would defeat the object of the statute if he were allowed to move to have his recognizances discharged (*Reg.* v. *Hargreaves*, 2 F. & F. 790, Keating, J.).

30 & 31 Vict. c. 35.

Limitation of 22 & 23 Vict. c. 17.

"Vict. c. 17 [*ante*, p. 876], in cases not within the mischief for "remedy whereof the same act was passed," and that "it is "expedient to restrict the operation thereof," by sect. 1 enacts, "That the said provision of the said first section of the said "act shall *not extend or be applicable to prevent* the presentment "to or finding by a grand jury of any bill of indictment con- "taining a count or counts *for any of the offences mentioned* "*in the said act*, if such count or counts be such as may now "be lawfully joined with the rest of such bill of indictment, "and if the same count or counts be founded (in the opinion "of the court in or before which the same bill of indictment "be preferred) upon the facts or evidence disclosed in any "examinations or depositions taken before a justice of the "peace, in the presence of the person accused or proposed to "be accused by such bill of indictment, and transmitted or "delivered to such court in due course of law;—and nothing "in the said act shall extend or be applicable to prevent the "presentment to or finding by a grand jury of any bill of "indictment, if such bill be presented to the grand jury with "the consent of the court in or before which the same may be "preferred."

On acquittal, &c. of person indicted, who has not been committed or held to bail, court may order prosecutor to pay costs to accused if it think the prosecution unreasonable.

Sect. 2.

By sect. 2, "Whenever any bill of indictment shall be pre- "ferred to any grand jury, under the provisions of the act "twenty-second and twenty-third Victoria, chapter seventeen, "against any person who has not been committed to or "detained in custody, or bound by recognizance to answer "such indictment, and the person accused thereby shall be "acquitted thereon, it shall be lawful for the court before "which such indictment shall be tried, in its discretion, to "direct and order that the prosecutor or other person by or "at whose instance such indictment shall have been preferred "shall pay unto the accused person the just and reasonable "costs, charges and expenses of such accused person and his "witnesses (if any) caused or occasioned by or consequent "upon the preferring of such bill of indictment to be taxed "by the proper officer of the court;—and upon non-payment "of such costs, charges and expenses, within one calendar "month after the date of such direction and order, it shall be "lawful for any of the superior courts of law at Westminster, "or any judge thereof, or for the justices and judges of the "central criminal court (if the bill of indictment has been "preferred in that court), to issue against the person on

"whom such order is made such and the like writ or writs, "process or processes, as may now be lawfully issued by any "of the said superior courts for enforcing judgments thereof."

Application to justices for process against accused should not be made in public.

By a rule for many years in operation at the Mansion House, London—which has the approval of the principal criminal lawyers in London,—"No application for a sum-"mons or warrant against any person for an offence or cause "of complaint will be permitted to be made in open court, "but the same must be made to the lord mayor or to the "chief clerk, either before the public sitting of the court or "at the termination of such sitting. If such application is "entertained in any case where the charge is for an indict-"able offence, an information in writing and on oath (of "which a skeleton form will be supplied) will be required "from the prosecutor and his witnesses."[5] The information is then submitted to the magistrate, and process issued or refused according to the merits of the case. Of course, the justices would be liable to a mandamus if they refused to hear the application, or if, after hearing it, they refused to grant a summons from a mistaken view of their duty, amounting to a declining of jurisdiction (*Reg.* v. *Fawcett, Ex parte Hodson*, 19 Law T., N. S. 396; 11 Cox, C. C. 305). In the case of *The Queen* v. *Adamson and others, Justices of Tynemouth*, 45 L. J., M. C. 46, an information for conspiracy against a

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5 *Reasons for hearing Applications privately.*]—This regulation is within the spirit, if not the letter, of the law, and the acts regulating the procedure before justices in every case. It is only when the justices are sitting to "*hear and try*" any complaint or information for an offence or cause of complaint authorized to be disposed of summarily, that "the room or place" in which they sit is "an open and public court" 11 & 12 Vict. c. 43, s. 12); for in cases where they take the examinations and depositions of witnesses in the presence of the accused in the preliminary inquiry on an indictable charge (and it is mostly in these graver offences that the *ex parte* applications referred to are often desired, for some private object only, to be publicly made and get reported), it is expressly provided that the room or building "shall not be deemed an open court for that purpose," and that, if the justices think that the ends of justice will be best answered by so doing, they may order that no person shall have access to or be or remain therein without their consent or permission (11 & 12 Vict. c. 42, s. 19). So that, if these enactments are to be taken as an indication of the intention of the legislature upon the subject, they plainly show, we think, that a complainant cannot claim to have his application for process against a defendant or an accused heard in public, and that parliament never intended or contemplated that such applications should be so made; the principle of the law apparently being that when justices are *not trying* a case or hearing the parties *on both sides* (whether it be preparatory to a summary adjudication or a committal for trial), every act preliminary to the hearing and in interlocutory matters ought to take place in private.

Application to justices for process against accused should not be made in public.

number of persons, supported by evidence which, if true, clearly proved the charge, was laid before justices, with an application to grant summonses against such persons. The justices, without hearing any evidence in contradiction or saying that they disbelieved the evidence tendered, refused the application. By affidavit, on showing cause against a rule for a mandamus to compel them to hear and determine the application, they stated that they came to the conclusion that they should not be justified in granting summonses against the said persons for the offence of conspiracy, and it was held that although a discretion is given to justices by Jervis's Act (11 & 12 Vict. c. 42), s. 9, whether or no they will issue their summons or warrant, yet they must exercise that discretion upon the facts before them; and that here, as the justices had not said that they disbelieved the evidence, but only that they came to the conclusion that they should not be justified in granting the summonses, they must have acted upon some extraneous knowledge or belief, and had, in effect, declined jurisdiction, and that therefore a mandamus should go to compel them to proceed and hear and determine the application. With regard to an oath being made upon *every* information as required by the rule referred to, it will be observed by sect. 8 of 11 & 12 Vict. c. 42, *supra*, that it is not absolutely required in indictable offences; but the approved practice is to do so as stated in Note 6, *infra*. Here it may be observed that it has been suggested that magistrates should receive all *ex parte* applications and statements *upon oath*. This suggestion seems to be founded upon an erroneous notion of the present law regulating proceedings before justices; for no general rule of the kind can be adopted, as an oath cannot be administered on such application, except the particular act so requires (and this applies to a very few cases), or a warrant is granted in the first instance, which likewise is not permitted in all cases. The two general acts regulating summary proceedings before justices and the prosecution of charges for indictable offences (11 & 12 Vict. cc. 42, 43), as well as some acts applicable to special offences and matters to be disposed of summarily, require that an information or complaint *should be laid or made before a justice*, to whom such applicant must, of course, give some grounds for a summons or warrant being granted. As to such information or complaint being *upon oath*, in cases

within the summary jurisdiction, it is *not to be* upon oath unless the particular act so requires where a summons is to be issued; but where a warrant is issued in the first instance for an offence (and not for a civil matter, as for wages, &c., wherein it can only be granted on the disobedience of a summons), *it is to be* upon oath (11 & 12 Vict. c. 43, ss. 1, 2, 10). In charges of indictable offences the information *may* be without oath and by parol where a summons is issued; but if a warrant is issued it *must be* in writing and upon oath (11 & 12 Vict. c. 42, ss. 1, 8). Therefore, a justice cannot legally administer an oath *in all cases* on the making of an application or complaint when he issues a summons, unless it be authorized by the general or special act.

11 & 12 Vict. c. 42.

Information may be received on a Sunday.

By 11 & 12 Vict. c. 42, s. 4,—"any justice or justices of the "peace may grant or issue any warrant as aforesaid or any "search warrant on a Sunday as well as on any other day." The charge may, therefore, be preferred and an information in writing and on oath taken on that day.

Sect. 4.

When information to be in writing and on oath.

Sect. 8.

By sect. 8,—"in all cases where a charge or complaint for "any indictable offence shall be made before such justice or "justices as aforesaid, if it be intended to issue a warrant in "the first instance against the party or parties so charged, an "information and complaint thereof (A) in writing on the "oath or affirmation of the informant,[6] or of some witness or "witnesses in that behalf, shall be laid before such justice or "justices;—provided always, that in all cases where it is in-"tended to issue a summons instead of a warrant in the first "instance, it shall not be necessary that such information and "complaint shall be in writing, or be sworn to or affirmed in "manner aforesaid, but in every such case such information "and complaint may be by parol merely, and without any "oath or affirmation whatsoever to support or substantiate "the same;—provided also, that no objection shall be taken "or allowed to any such information or complaint for any

No objection to form.

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6 *Who to prefer Charge.*] Any person it appears may prefer the charge, but this section contemplates that the informant or witness must know something of the facts of the case from his own knowledge. A constable would be the proper party to prosecute, if the owner of property stolen be unwilling to do so, and in that case the owner might be summoned as a witness. But the approved practice is to take an information in the form of a deposition (of course, upon oath) in the first person, stating shortly the facts, and not an information of the offence couched in the technical language of an indictment or commitment. See *Note* 5, *supra*.

"alleged defect therein in substance or in form, or for any "variance between it and the evidence adduced on the part "of the prosecution before the justice or justices who shall "take the examination of the witnesses in that behalf as "hereinafter mentioned." [A similar provision is contained in sect. 9, *post*, as to the summons or warrant.]

Form of oath. The form of oath, on receiving the information and complaint, is in Vol. I., p. 139; and oaths of persons of different religious persuasions are given, Vol. I., pp. 85—89.

Requisites of the information. Although the same strictness is not required in the form and manner of stating an indictable offence as on summary convictions, the information must show, in substance, the offence in respect of which the charge is made;[7] but a technical description of the offence should appear on the warrant, of which we have treated in a subsequent section of this chapter.

The offenders: The general rule is, that all persons are responsible for their acts done in violation of the law; but to this rule there are exceptions in favour of infants, insane persons, persons under coercion, as married women and others, and irresponsible agents. In some cases also the accused, although interested in the property with respect to which the offence was committed, is liable to be convicted (see *Reg.* v. *Moody*, 1 Leigh & Cave, C. C. 173; *Reg.* v. *Smith*, Id. 168; 6 Law T., N. S. 300; *Reg.* v. *Burgess*, 32 L. J. (N. S.) M. C. 185; 1 Leigh & Cave, C. C. 299; and tit. "*Fraudulent Trustees*," in Chap. II. of this Part).

Infants. An *infant* under seven years of age is not criminally responsible, the law considering the mental capacity of a child of such tender years to be too immature to enable it to form a sufficient judgment of right and wrong; but above seven and under fourteen they are criminally responsible for their acts, if it appear that they had sufficient discretion (*R.* v. *Owen*, 4 C. & P. 236); but there is an exception in charges of rape, and assault with intent to commit that crime (*R.* v. *Phillips*, 8 C. & P. 736).

Lunatics. In the case of a *lunatic*, the law presumes the offence to have been committed in a lucid interval, unless it appear to have been committed in the time of his distemper (1 Hale, 33, 34; 1 Hawk. P. C. pp. 2, 3); and where persons supposed to be lunatic are charged before a justice with an indictable offence, the course to take is to secure their appear-

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7 See *Note* 6, *supra*.

ance at the trial, in order that, if they be insane, they may be confined under the acts 1 & 2 Vict. c. 14, and 27 & 28 Vict. c. 29 (see tit. "*Lunatics*," Chap. II. of Part III.). A wife cannot be convicted of any larceny, burglary, wounding, forgery, or for uttering forged notes, if the offence be committed in the presence of her husband, and with his coercion and participation; 8 but in treason, murder, perjury and robbery, the presence and coercion of her husband will not avail her; or where the wife was the more active party, or her husband was incapable of constraining her to commit the offence. A wife is not guilty of larceny with respect to her husband's goods; but if her adulterer receives them knowingly he would be guilty, and likewise if he took them in company with the wife; 9 but if the property be the wearing apparel of the wife, he could not be convicted of stealing those articles. 10 If an offence be committed through the instrumentality of an irresponsible agent, as an idiot, a lunatic, an infant or child without legal discretion, or a postmaster (in the case of letters), as well as procured to be done by artifice, the employer or procurer is answerable alone, and as principal, even although he was absent when the act was done. 11 Likewise, if done by an agent in the course of business, as the presenting of forged documents or the like, the principal is responsible for the uttering wherever it takes place.

Wife.

Through irresponsible agents.

With respect to crimes committed in this country by foreigners, it may be stated generally, that they, being resident here, under the protection of our laws, and therefore subject to them (*Cal-*

Aliens.

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8 *R.* v. *Hughes*, 1 Lewin, C. C. 229; *Reg.* v. *Smith and Wife*, 27 L. J. (N. S.) M. C. 204; *Rex* v. *Archer*, 1 Moo. C. C. 143; *R.* v. *Brooks*, Dears. C. C. R. 184; *Reg.* v. *Wardroper*, 1 Bell, C. C. 249; 1 Law T., N. S. 416.

9 *R.* v. *Tollfree*, Ryan & M. C. C. R. 243; *Reg.* v. *Berry*, 28 L. J. (N. S.) M. C. 70; 32 Law T. 286, 323; *Reg.* v. *Avery*, 28 L. J. (N. S.) M. C. 185; 1 Bell, C. C. 150; *Reg.* v. *Mutters*, 34 L. J. (N. S.) M. C. 54; 1 Leigh & Cave, C. C. 511; *Reg.* v. *M'Athey*, 32 L. J. (N. S). M. C. 35; 1 Leigh & Cave, C. C. 250; *Reg.* v. *Deer*, 32 L. J. (N. S.) M. C. 33; 1 Leigh & Cave, C. C. 240; *Reg.* v. *Prince*, 11 Cox, C. C. 145; *Reg.* v. *Coker*, Id. 99; *Reg.* v. *Halford*, Id. 88.

10 *Reg.* v. *Fitch*, 1 Dears. & B. C. C. 187.

11 1 Greaves's Russell, 4th ed. pp. 32, 53; *R.* v. *Michael*, 9 C. & P. 356; *Hammond's Case*, 1 Leach, 447; and see *R.* v. *Bleasdale*, 2 C. & K. 765. As to the postmaster being considered the agent of the accused, see *Reg.* v. *Jones*, 1 Den. C. C. 551; 19 L. J. (N. S.) M. C. 162; *Leech's Case*, 3 Dears. C. C. 642; 25 L. J. (N. S.) M. C. 77; *Reg.* v. *Cryer*, 26 L. J. (N. S.) M. C. 192; 29 Law T. 268.

vin's Case, 7 Co. Rep. 6), are punishable here in the same way as natural-born British subjects would be; and if indicted, it is no excuse whatever that the act charged against them is no offence by the laws of their native country.12 As regards offences here with respect to foreign states, see *post*.

Accessories and principals in the second degree in felonies.

As to accessories and principals in the second degree in felonies,13 the enactments in the Criminal Law Acts, 1861, may be thus arranged:—

—Before the fact.

24 & 25 Vict. c. 94, s. 1.

Accessories before the Fact.]—By the Accessories and Abettors Act, 1861, 24 & 25 Vict. c. 94, s. 1, "whosoever shall become an accessory before the fact to any felony, whether the same be a felony at common law or by virtue of any act passed or to be passed, may be indicted, tried, convicted and punished in all respects as if he were a principal felon."

How accessories before the fact may be indicted.

Sect. 2.

By sect. 2, "whosoever shall counsel, procure, or command any other person to commit any felony, whether the same be a felony at common law or by virtue of any act passed or to be passed, shall be guilty of felony, and may be indicted and convicted either as an accessory before the fact to the principal felony, together with the principal felon, or after the conviction of the principal felon,—or may be indicted and convicted of a substantive felony whether the principal felon shall or shall not have been previously convicted, or shall or shall not be amenable to justice, and may thereupon be punished in the same manner as any accessory before the fact to the same felony, if convicted as an accessory, may be punished." [This provision contemplates that a felony shall have been committed, and to solicit and incite a person to commit a felony, though no felony be in fact committed, is a misdemeanor, notwithstanding this enact-

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12 *R.* v. *Esop*, 7 Car. & P. 456. See the Naturalization Act, 1870, 33 Vict. c. 14, s. 10 (given in tit. "*Aliens*," in Chap. 2 of Part III., *post*), as to the status of married women, and *R.* v. *Manning*, 2 C. & K. 887; 19 L. J. (N. S.) M. C. 1. Foreigners under our protection abroad seem also to be treated as British subjects (*R.* v. *Azzopardi*, 2 Mood. C. C. 228; 1 C. & K. 203).

13 *Who are Accessories and Principals in the Second Degree.*] By the common law an accessory *before* the fact is he who, being absent at the time of the felony committed, doth let, procure, counsel, command or abet another to commit a felony (1 Hale, 616). An accessory *after* the fact is one who, knowing a felony to have been committed by another, receives, relieves, comforts or assists the felon, whether he be a principal or an accessory before the fact merely (Id. 617). See *Reg.* v. *Huntley*, 1 Bell, C. C. 238; 29 L. J. (N. S.) M. C. 70; *Reg.* v. *Hughes*, 1 Bell, C. C. 242; 29 L. J. (N. S.) M. C. 70, 71; 1 Law T., N. S. 450. As to principals as distinguished from accessories, they are divided into principals in the first degree and principals in the second degree, the former being the actual perpetrators of the crime, the latter those who are present or near, either actually assisting or ready to do so if occasion requires. The punishment being the same, the indictment makes no distinction between these two kinds of principals (Davis, Cr. L. Acts, pp. 98, 99).

ment (*Reg.* v. *Gregory*, 36 L. J. (N. S.) M. C. 60; 16 Law T., N. S. 383).] 24 & 25 Vict. c. 94.

By the Larceny Consolidation Act, 1861, 24 & 25 Vict. c. 96, s. 98, the Malicious Injuries Consolidation Act, 1861, 24 & 25 Vict. c. 97, s. 56, the Forgery Act, 1861, 24 & 25 Vict. c. 98, s. 49, the Coinage Offences Act, 1861, 24 & 25 Vict. c. 99, s. 35, and the Offences against the Person Act, 1861, 24 & 25 Vict. c. 100, s. 67, in felonies punishable thereunder, every principal in the second degree, and every accessory before the fact, is punishable in the same manner as the principal in the first degree is by those acts punishable.

Accessories after the Fact. 14]—By 24 & 25 Vict. c. 94, s. 3, "whosoever shall become an accessory after the fact to any felony, whether the same be a felony at common law or by virtue of any act passed or to be passed, may be indicted and convicted either as an accessory after the fact to the principal felony, together with the principal felon, or after the conviction of the principal felon,—or may be indicted and convicted of a substantive felony whether the principal felon shall or shall not have been previously convicted, or shall or shall not be amenable to justice, and may thereupon be punished in like manner as any accessory after the fact to the same felony, if convicted as an accessory, may be punished." —After the fact; Sect. 3. how may be indicted.

By sect. 4, "every accessory after the fact to any felony (except where it is otherwise specially enacted), whether the same be a felony at common law or by virtue of any act passed or to be passed, shall be liable, at the discretion of the court, to be imprisoned in the common gaol or house of correction for any term not exceeding two years, with or without hard labour,—and it shall be lawful for the court, if it shall think fit, to require the offender to enter into his own recognizances and to find sureties, both or either, for keeping the peace, in addition to such punishment: provided that no person shall be imprisoned under this clause for not finding sureties for any period exceeding one year." Punishment of accessories after the fact. Sect. 4.

By the Larceny and the other acts and sections mentioned *infra*, every accessory after the fact (except receivers of property, and to murder, which are specially enacted) is to be punished by imprisonment not exceeding two years, with or without hard labour and solitary confinement; and fine and sureties for keeping the peace.

Accessories generally.]—By 24 & 25 Vict. c. 94, s. 5, "if any principal offender shall be in anywise convicted of any felony, it shall be lawful to proceed against any accessory either before or after the fact, in the same manner as if such principal felon had been attainted Prosecution of accessories generally after conviction, but not attainder of principal. Sect. 5.

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14 An accessory after the fact should be indicted as such, as he cannot be convicted upon an indictment charging the commission of the felony only (*Reg.* v. *Fallon*, 32 L. J. (N. S.) M. C. 66; 1 Leigh & Cave, C. C. 217).

24 & 25 Vict. c. 94.

thereof, notwithstanding such principal felon shall die, or be pardoned, or otherwise delivered before attainder; and every such accessory shall upon conviction suffer the same punishment as he would have suffered if the principal had been attainted."

Several accessories and receivers may be jointly indicted without principal.

Sect. 6.

By sect. 6, "any number of accessories at different times to any felony, and any number of receivers at different times of property stolen at one time, may be charged with substantive felonies in the same indictment, and may be tried together, notwithstanding the principal felon shall not be included in the same indictment, or shall not be in custody or amenable to justice."

Place of trial of accessories.

Sect. 7.

By sect. 7, "where any felony shall have been *wholly* committed within England or Ireland, the offence of any person who shall be an accessory either before or after the fact to any such felony may be dealt with, inquired of, tried, determined and punished by any court which shall have jurisdiction to try the principal felony, or any felonies committed in any county or place in which the act by reason whereof such person shall have become such accessory shall have been committed;—and in every other case the offence of any person who shall be an accessory either before or after the fact to any felony may be dealt with, inquired of, tried, determined and punished by any court which shall have jurisdiction to try the principal felony or any felonies committed in any county or place in which such person shall be apprehended or be in custody, whether the principal felony shall have been committed on the sea or on the land, or begun on the sea and completed on the land, or begun on the land and completed on the sea, and whether within her Majesty's dominions or without, or partly within her Majesty's dominions and partly without;—provided that no person who shall be once duly tried either as an accessory before or after the fact, or for a substantive felony under the provisions hereinbefore contained, shall be liable to be afterwards prosecuted for the same offence." 15

Accessories within admiralty jurisdiction.

Sect. 9.

Accessories within Admiralty Jurisdiction.]—By sect, 9, "where any person shall, within the jurisdiction of the admiralty of England or Ireland, become an accessory to any felony, whether the same be a felony at common law or by virtue of any act passed or to be passed, and whether such felony shall be committed within that jurisdiction or elsewhere, or shall be begun within that jurisdiction and completed elsewhere, or shall be begun elsewhere and completed within that jurisdiction, the offence of such person shall be felony;—and in any indictment for any such offence the venue in the margin shall be the same as if the offence had been committed

15 *Vide* also the 7 & 8 Geo. 4, c. 64, ss. 12, 13, Vol. I. pp. 22, 23, as to offences on the borders of counties, or begun in one and completed in another, and offences during a journey or voyage. *Vide* also 24 & 25 Vict. c. 100, ss. 9, 10, as to murder and manslaughter, and hurts abroad, pp. 911, 912.

in the county or place in which such person shall be indicted, and his offence shall be averred to have been committed 'on the high seas;'—16 provided that nothing herein contained shall alter or affect any of the laws relating to the government of her Majesty's land or naval forces." 24 & 25 Vict. c. 94.

In high treason, and in all crimes under the degree of felony, there are no accessories; but all persons concerned therein, if guilty at all, are principals; the same rule holding with regard to the highest and lowest offences; to the highest *propter odium delicti;* to the lowest, because the law, *quæ de minimis non curat,* does not descend to distinguish the different shades of guilt in petty misdemeanors. 17 This position, as concerns misdemeanors generally, is affirmed by 24 & 25 Vict. c. 94, s. 8, which enacts:— Aiders and abettors in treason and misdemeanors.

"Whosoever shall aid, abet, counsel or procure the commission of any misdemeanor, whether the same be a misdemeanor at common law or by virtue of any act passed or to be passed, shall be liable to be tried, indicted, and punished as a principal offender." [The Larceny Act, 24 & 25 Vict. c. 96, s. 98, the Malicious Injuries Act, 24 & 25 Vict. c. 97, s. 56, the Forgery Act, 24 & 25 Vict. c. 98, s. 49, and the Offences against the Person Act, 24 & 25 Vict. c. 100, s. 67, contain a precisely similar provision as the last clause.] Sect. 8.

A receiver of property stolen, taken, obtained, converted, or disposed of may, whether charged as an accessory after the fact to the felony, or with a substantive felony [under sect. 91], or with a misdemeanor only, be dealt with, indicted, tried and punished, in the place in which he shall have had the property in his possession, or where he received it, or where the principal felon or misdemeanant may be tried (24 & 25 Vict. c. 96, s. 96); and the same where the principal felony was committed in another part of the kingdom (Id. s. 114). See also the provisions of ss. 3, 4, 5, 6, 7 of 24 & 25 Vict. c. 94, which relate to receivers, who are in fact accessories after the fact. In the indictment a count may be added for feloniously stealing the property (24 & 25 Vict. c. 96, s. 92), and separate receivers may be included in the same indictment in the absence of the principal (Id. s. 93), as well as joint receivers, and they may Receivers of property stolen, &c.

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16 For the other enactments in the Criminal Law and other acts as to principal offenders, see *post*, pp. 903, 904.

17 4 Bla. Com. 36; 1 Hale, 613; *Reg.* v. *Greenwood*, 2 Den. C. C. 453; 21 L. J. (N. S.) M. C. 127.

be separately convicted (Id. s. 94; see *Reg.* v. *Reardon & Bloor*, 35 L. J. (N. S.) M. C. 171; 1 L. Rep., C. C. R. 31). In these cases, and also in cases where the stealing, taking, &c. by the principal is a misdemeanor only, the receiver may be indicted and convicted whether the principal "shall or shall not have "been previously convicted, or shall or shall not be amenable "to justice" (Id. ss. 91, 95).

Offences in different parts of the kingdom.

The offence of having possession of stolen property in one part of the kingdom [*i. e.* in England] which has been stolen in another part [*i. e.* Scotland or Ireland], can be dealt with in that part where the offender is found with the property (24 & 25 Vict. c. 96, s. 114); but this is not applicable to goods obtained by false pretences and carried into another country (*Reg.* v. *Stanbury*, 31 L. J. (N. S.) M. C. 88; 5 Law T., N. S. 686), as where a person received or had possession in England of goods stolen in Guernsey (*Reg.* v. *Debruiel*, 11 Cox, C. C. 207, Byles J.). See 24 & 25 Vict. c. 94, ss. 7, 9, as to accessories here to offences abroad; and see *post*, p. 907.

Offences out of the kingdom.

Dying declaration may be made and received in evidence, upon certain conditions.

The declaration of a person who is dying in consequence of injuries received from another, may be made orally or in writing to a magistrate, a surgeon, a superintendent of police or other competent person, and, after the death of the dying person, proved by the person who heard the expressions used. Although no particular form of the declaration is necessary, there are certain material ingredients required in order to its admissibility in evidence against an accused, viz.—1, the cause of the death of the declarant must be the subject of inquiry; 2. the circumstances of the death the subject of the declaration; and 3, it must appear to have been made at a time when the deceased was perfectly aware of his danger, and entertained no hope of recovery; 18 but it is only in cases where the deceased, if he had lived, could be a witness, that this evidence is receivable (*R.* v. *Pike*, 3 C. & P. 598); and that is a question for the judge at the trial (*Reg.* v. *Smith*, 34

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18 *R.* v. *Mead*, 2 B. & C. 605; *R.* v. *Hutchinson*, Id. 608, n.; *R.* v. *Lloyd and others*, 4 C. & P. 233; *R.* v. *Crockett*, Id. 544; *R.* v. *Bonner*, 6 C. & P. 386; *R.* v. *Foster*, Id. 325; *R.* v. *Spilsbury*, 7 C. & P. 187; *R.* v. *Fagent*, Id. 238; *R.* v. *Woodcock*, 1 Leach, 500; *Reg.* v. *Taylor*, 3 Cox, C. C. 84; *Reg.* v. *Reany*, 26 L. J. (N. S.) M. C. 43; 1 Dears. & Bell, C. C. 151; *Reg.* v. *Whitworth*, 1 F. & F. 382; *Reg.* v. *Hind*, 29 L. J. (N. S.) M. C. 147; 2 Law T., N. S. 253; *Reg.* v. *Clarke*, 2 F. & F. 2; see 3 Russell on Cr., 4th ed. p. 250, &c.; *Reg.* v. *Mackay*, 11 Cox, C. C. 148; *Reg.* v. *Jenkins*, 38 L. J. (N. S.) M. C. 82; 20 Law T., N. S. 372.

L. J. (N. S.) M. C. 153; 1 Leigh & Cave, C. C. 607). Whether this declaration is in writing or not, it should not be *upon oath* when taken in the accused's absence by a magistrate, and it has no greater weight if made upon oath, although one upon oath, embodied in a written information for the injury to the declarant under the 11 & 12 Vict. c. 42, s. 8, *ante*, p. 881, would possibly be admissible in evidence. The principle upon which these dying declarations are receivable in evidence is founded on the situation of the dying person, which is considered as powerful over his conscience as the obligation of an oath (1 Taylor on Evid. 4th ed. p. 616). If taken on oath in the presence of the accused, it then becomes a deposition, and may be used, under 11 & 12 Vict. c. 42, s. 17, *post*, p. 946, in the event of the party's death, without the necessity of proving that it was made in anticipation of death. 19

Power to take deposition of person dangerously ill.

By 30 & 31 Vict. c. 35, s. 6 (*post*, p. 947), a justice has power to take the deposition of a person dangerously ill and unable to travel, and not likely to recover, who can give important information as to an indictable offence, or to a person accused thereof.

Information to justices for search warrant for stolen goods.

As to the issue of a search warrant (which is often necessarily dispensed with by the police where persons are already charged with felony), it may now be authorized by a justice, &c. or chief officer of police (see *post*, p. 894). By virtue of the commission of the peace, any one justice may grant a search warrant upon an information on oath 20 by the owner of goods stolen, or any person on his behalf, if reasonable grounds for suspecting that such goods are in the house or upon the premises of a particular person situate within the jurisdiction of the justice granting the warrant; but a positive oath that larceny is actually committed is not necessary. 21 The Larceny Consolidation Act, 1861, 24 & 25 Vict. c. 96, s. 103, provides (*inter alia*), that "if any credible witness shall prove "upon oath before a justice of the peace a reasonable cause "to suspect that any person has in his possession or on his "premises any property whatsoever, on or with respect to "which *any offence*, punishable either upon indictment or "upon summary conviction by virtue of this act, shall have

19 *Vide* Form suggested, No. 5, Oke's "*Formulist*," 6th ed. p. 474.
20 *Vide* Form of Information, No. 4, Id.
21 See *Elsee* v. *Smith*, 1 D. & R. 97; *Wyatt* v. *White*, 1 Law T., N. S. 517.

"been committed, the justice may grant a warrant to search "for such property, as in the case of stolen goods."[22] This enactment extends to a variety of misdemeanors as well as felonies, and comprehends offences under the following titles of Chapter II. of this part of the Work:—

Agents.	*Fraudulent Trustees.*
Burglary.	*Game.*
Cattle.	*Housebreaking.*
Embezzlement.	*Larceny.*
False Pretences.	*Receivers.*
Fish.	*Sacrilege.*

There are also clauses in the other Criminal Law Consolidation Acts, 1861, authorizing the issue of search warrants, viz. 24 & 25 Vict. c. 97, s. 55; 24 & 25 Vict. c. 98, s. 46; 24 & 25 Vict. c. 99, s. 27; 24 & 25 Vict. c. 100, s. 65.

Chief officer of police to authorize a constable to search for stolen property.

By the Prevention of Crimes Act, 1871, 34 & 35 Vict. c. 112, s. 16, "Any constable may under the circumstances "hereafter in this section mentioned be authorized in writing "by a chief officer of police[23] to enter, and if so authorized "may enter, any house, shop, warehouse, yard, or other pre-"mises in search of stolen property, and search and seize and "secure any property he may believe to have been stolen, in "the same manner as he would be authorized to do if he had "a search warrant, and the property seized, if any, corre-"sponded to the property described in such search warrant. "In every case in which any property is seized in pursuance "of this section the person on whose premises it was at the "time of seizure, or the person from whom it was taken if "other than the person on whose premises it was, shall, unless "previously charged with receiving the same knowing it to "have been stolen, be summoned before a court of summary "jurisdiction[24] to account for his possession of such pro-

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22 The justice granting this warrant must also be one having jurisdiction in the place where the property is suspected to be, whether the offence was originally committed there or not. There are other special enactments as to search warrants referred to in other titles of Chap. II.

23 The "chief officer of police" is defined by sect. 20 to mean—"(1.) In the city of London and the liberties thereof, the commissioner of city police: (2.) In the metropolitan police district, the commissioner of police of the metropolis: (3.) Elsewhere in England, the chief constable, or head constable, or other officer, by whatever name called, having the chief command of the police in the police district in reference to which such expression occurs. * * * Any act or thing by this act authorized to be done by the chief officer of police may be done by any person authorized by him in that behalf."

24 *I. e.* a police or stipendiary magistrate, the lord mayor or an alder-

"perty, and such court shall make such order respecting the "disposal of such property, and may award such costs as the "justice of the case may require.

"It shall be lawful for any chief officer of police to give "such authority as aforesaid in the following cases, or either "of them:—

"First. When the premises to be searched are, or within "the preceding twelve months have been, in the occu- "pation of any person who has been convicted of re- "ceiving stolen property or of harbouring thieves: or

"Second. When the premises to be searched are in the "occupation of any person who has been convicted of "any offence involving fraud or dishonesty, and pun- "ishable by penal servitude or imprisonment:

"And it shall not be necessary for such chief officer of police "on giving such authority to specify any particular property, "but he may give such authority if he has reason to believe "generally that such premises are being made a receptacle "for stolen goods."

When several joint offenders.

Several offenders, who have taken part in committing the same offence, as well as several offences committed by one person, may be joined in the same information and complaint, there being no restriction in this statute (11 & 12 Vict. c. 42) as in the 11 & 12 Vict. c. 43, s. 10, Vol. I., p. 129, relating to summary convictions as to the *number* of offences.

Criminal charges arising out of civil proceedings.

As a general rule, magistrates ought not to entertain criminal charges arising out of civil proceedings which are still pending; at all events, except for the purpose of holding the accused to bail, unless the trial has been postponed to allow the criminal charge to be first disposed of. In such a case the Court of Queen's Bench has refused to issue a mandamus to the justices to compel them to hear the charge. 25

Charges already entertained by coroner.

It is perfectly competent, and is not unusual for justices to grant process (of course, on a proper information regularly

man of London, or any two or more justices in petty sessions. See sect. 17 in *Note* 92, *ante*, pp. 370, 371, tit. "Convicts," Vol. I.

25 *R.* v. *Ingham*, 14 Q. B. 396. It is the practice of the Central Criminal Court not to try an indictment for perjury arising out of a civil action until such action is determined, unless the trial of the action has been postponed by the court in order that the indictment may be tried first (*R.* v. *Ashburn*, and *R.* v. *Simmons*, 8 C. & P. 50); but this rule is not applicable where the alleged perjury is committed in some interlocutory proceeding, as in an affidavit to hold to bail, or an affidavit for an order to plead under the Bills of Exchange Act, 18 & 19 Vict. c. 67, s. 2.

preferred) against parties accused of manslaughter or o murder, and to take the examinations of the witnesses as i any ordinary charge of an indictable offence, notwithstandin the accused has been committed for trial on the coroner' inquisition on the same evidence as could be produced befor the justices. There are many advantages in this course a regards the evidence by deposition in the case of the death o illness of any witness examined for the prosecution or for th accused before the justices and other considerations likely t arise on the trial upon the coroner's inquisition. (*Reg.* v *Spoor*, 11 Cox, C. C. 550—Blackburn, J.) If an accuse charged with manslaughter has not been bailed by the coroner which he may do under the 22 Vict. c. 33, a warrant shoul be issued for his apprehension, and the prosecutor's solicito will obtain a writ of *habeas corpus* for the accused being brought before the justices for examination (see *Note* 3, p. 897).

Cases of previous conviction.

Where a previous conviction is intended to be charged against an accused, it need not be alleged in the information unless it was a summary conviction, and the subsequent offence would not be indictable except after a previous summary conviction; but the proper proof may be delayed to be produced till the hearing of the present charge.

Offenders who have escaped to a foreign country.

Notwithstanding the accused has escaped to a foreign country at the time of the preferring the charge, whether the crime charged is one mentioned in the Extradition Act, 1870, 33 & 34 Vict. c. 52, or the former acts, or applies to the foreign country or not, any justice having jurisdiction over the offence, whether police or stipendiary, or otherwise, may receive the information and grant a warrant for the apprehension of the accused, and hear the case upon his being brought before him in the ordinary way, as that act does not at all affect the granting of a warrant, but only regulates the delivery up of offenders from the state in which they may seek an asylum to another in which the offence was committed. For the provisions of the 33 & 34 Vict. c. 52 (as well as a reference to the repealed acts), in the case of a fugitive criminal from a foreign state, see division 5 of Sect. II. of this Part, *post*, p. 914.

FORM.

[(A) in 11 & 12 Vict. c. 42, No. 1, Oke's "*Formulist*," 6th ed. p. 473.]

SECT. II. THE PROCESS TO ISSUE AGAINST OFFENDERS, THE EXTRADITION OF CRIMINALS, &C.

1. *In ordinary Cases.*
2. *For Offences at Sea or Abroad.*
3. *Where an Indictment found.*
4. *Apprehension of Offenders without Warrant.*
5. *Extradition of Criminals*, i.e., *Offenders Surrendered to or by Foreign States under Treaties with this Country.*
6. *Offences in or Offenders flying to other Foreign Countries with whom no Treaties for Extradition of Criminals exist.*
7. *Offences in the Colonies and Offenders escaping to this Country, or vice versâ.*

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1. *In ordinary Cases.*

Warrant or summons in the first instance.

11 & 12 Vict. c. 42. Sect. 1.

11 & 12 Vict. c. 42, s. 1, enacts,—"that in all cases where "a charge or complaint (A) 1 shall be made before any one or "more of her Majesty's justices of the peace for any county, "riding, division, liberty, city, borough or place within Eng-"land or Wales, that any person has committed—or is sus-"pected to have committed—any treason, felony or indictable "misdemeanor, or other indictable offence whatsoever *within* "the limits of the jurisdiction of such justice or justices of the "peace,—2 or that any person guilty or suspected to be guilty "of having committed any such crime or offence *elsewhere out* "of the jurisdiction of such justice or justices is residing or "being or is suspected to reside or be within the limits of the "jurisdiction of such justice or justices,—then and in every "such case, if the person so charged or complained against "shall not then be in custody, 3 it shall be lawful for such

Warrant to be issued,

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1 It will be seen by sect. 8, *ante*, p. 885, that where a warrant is issued an information in writing and on oath must be taken; but if a summons is issued, the information need not be in writing or on oath; and by p. 883, and *Note* 5, that the practice at the Mansion House, London, is *in all cases* to take an information in writing and on oath whatever process is issued against the accused.

2 *Vide* the Introduction, Vol. I. pp. 21—25, as to the jurisdiction of justices in respect to indictable offences under special circumstances, paragraphs numbered 10 to 26. As to the apprehension of persons flying to foreign countries, or the Colonies, see pp. 931, 932.

3 If the accused be in gaol for some other offence, and no indictment found for the subsequent offence, this warrant under the section must be given to the constable, and he must execute it the first opportunity. If the charge be a serious one, or where delay would be inconvenient, a

11 & 12 Vict. c. 42.

"justice or justices of the peace to issue his or their warran
"(B), to apprehend such person, and to cause him to b
"brought before such justice or justices, or any other justic
"or justices for the same county, &c., to answer to suc
"charge or complaint, and to be further dealt with accordin
Sect. 1. "to law:—Provided always, that in all cases it shall be law
"ful for such justice or justices to whom such charge or com
"plaint shall be preferred, if he or they shall so think fit
"instead of issuing in the first instance his or their warran
"to apprehend the person so charged or complained against
or a summons, "to issue his or their summons (C), directed to such person
"requiring him to appear before the said justice or justices
"at a time and place to be therein mentioned, or before such
"other justice or justices of the same county, &c. as may ther
or warrant on disobedience, "be there,—and if after being served with such summons in
"manner hereinafter mentioned he shall fail to appear at such
"time and place, in obedience to such summons, then and in
"every such case the said justice or justices, or any other
"justice or justices of the peace for the same county, &c.,
"may issue his or their warrant (D) to apprehend such person
"so charged or complained against, and cause such person to
"be brought before him or them, or before some other justice
"or justices of the peace for the same county, &c., to answer
"to the said charge or complaint, and to be further dealt with

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justice might examine the witnesses at the gaol in the presence of the prisoner, as in ordinary cases, and sign a commitment in the usual way, or a *habeas corpus* might be obtained on an affidavit of the prosecutor detailing the evidence against the accused; or, which is a more simple mode, a justice's warrant can be obtained and application made to a judge at chambers on an affidavit of the prosecutor or the officer having charge of the new case. The court will not, however, grant the application to remove a prisoner from gaol where he is undergoing sentence, in order to take him before a justice in another county for examination on another charge, but will grant a *habeas* to bring him up for trial on a true bill being found against him on that charge (*Reg.* v. *Day*, 3 F. & F. 526, Mellor, J.). The *habeas* is usual to bring the person before the magistrate to "answer to a charge of felony to be then and there made against him, and so *from day to day* until he shall have answered the said charge, and to be further dealt with according to law." The gaoler having the accused in custody will bring him with the writ before the justice. In case of the committal of the accused, he will be sent to the ordinary gaol for felons with the *habeas* and answer (to which the original warrant of commitment will be annexed and therein referred to), which answer operates as a detainer should he be acquitted. If the accused is discharged by the justice, he is sent back to the prison from which he was brought, the justice indorsing that fact on the answer; if remanded, he is taken back and brought up again, and the answer indorsed by the justice to that effect.

"according to law:—4 Provided nevertheless, that nothing "herein contained shall prevent any justice or justices of the "peace from issuing the warrant hereinbefore first mentioned, "at any time *before or* after the time mentioned in such sum- "mons for the appearance of the said accused party."

11 & 12 Vict. c. 42.

or before return of summons.

By sect. 9, after providing—"that upon such information and "complaint being so laid as aforesaid, the justice or justices "receiving the same may, if he or they shall think fit, issue "his or their summons or warrant respectively as hereinbefore "is directed, to cause the person charged as aforesaid to be and "appear before him or them, or any other justice or justices of "the peace for the same county, riding, division, liberty, city, "borough or place, to be dealt with according to law," further enacts, that "every such summons (C) shall be directed to the "party so charged in and by such information, and shall state "shortly the matter of such information, 5 and shall require "the party to whom it is so directed to be and appear at a "certain time and place therein mentioned before the justice "who shall issue such summons, or before such other justice "or justices of the peace of the same county, riding, division, "liberty, city, borough or place as may then be there, to "answer to the said charge, and to be further dealt with "according to law;—and every such summons shall be served "by a constable or other peace officer upon the person to whom "it is so directed by delivering the same to the party per- "sonally,—or if he cannot conveniently be met with then by "leaving the same with some person for him at his last or "most usual place of abode;—and the constable or other "peace officer who shall have served the same in manner afore- "said shall attend at the time and place and before the justices "in the said summons mentioned, to depose, if necessary, to "the service of such summons;—and if the person so served "shall not be and appear before the justice or justices at the "time and place mentioned in such summons, in obedience to "the same, then it shall be lawful for such justice or justices "to issue his or their warrant (D) for apprehending the per- "son so summoned, and bringing him before such justice or

Sect. 9.

How summons directed.

How summons is to be served.

4 Justices cannot proceed to hear a charge of an indictable offence in the absence of the accused, even though he be represented by counsel or solicitor; and no admission of such counsel or solicitor can at any time during the inquiry be received in evidence against the accused.

5 For a short mode of describing all indictable offences, see Oke's "*Formulist*," 6th ed. pp. 514—612.

11 & 12 Vict. c. 42.

"justices, or some other justice or justices of the peace for the "same county, &c., to answer the charge in the said informa- "tion and complaint mentioned, and to be further dealt with "according to law:—Provided always, that no objection shall "be taken or allowed to any such summons or warrant, for "any alleged defect therein in substance or in form,—or for "any variance between it and the evidence adduced on the "part of the prosecution before the justice or justices who "shall take the examinations of the witnesses in that behalf, "as hereinafter mentioned;—6 but if any such variance shall "appear to such justice or justices to be such that the party "charged has been thereby deceived or misled, it shall be "lawful for such justice or justices, at the request of the party "so charged, to adjourn the hearing of the case to some future "day, and in the meantime to remand the party so charged, "or admit him to bail, in manner hereinafter mentioned." 7

No objection for alleged defect in form, &c.;

but if variance has misled, may adjourn hearing.

How warrant directed.

Sect. 10, after enacting—"that every warrant (B) hereafter "to be issued by any justice or justices of the peace to appre- "hend any person charged with any indictable offence, shall "be under the hand and seal or hands and seals of the justice "or justices issuing the same, and may be directed either to "any constable or other person *by name*, or generally to the "constable of the parish, or other district within which the "same is to be executed, without naming him, or to such "constable and all other constables or peace officers in the "county, or other district within which the justice or justices "issuing such warrant has or have jurisdiction, or generally "to all the constables or peace officers within such last- "mentioned county or district,—and it shall state shortly the "offence on which it is founded,—8 and shall name *or other- "wise describe* the offender,—and it shall order the person or "persons to whom it is directed to apprehend the offender and "bring him before the justice or justices issuing the said "warrant, or before some other justice or justices of the

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6 A similar proviso is contained in sect. 8, *ante*, p. 885, as to the information or complaint, but there is nothing there said about it deceiving or misleading the accused, or as to adjourning the case, probably because the warrant or summons is the only document the accused has seen. See *post*, p. 941, "*The Preliminary Examination and Committal of Accused;*" but where the offence is not committed in the jurisdiction where offender apprehended, see sect. 22, *post*, pp. 960, 961.

7 See *post*, p. 936, as to remanding or bailing accused before or during the examination.

8 See *Note 5*, *supra*.

"peace for the same county, riding, division, liberty, city, "borough, or place, to answer to the charge contained in the "said information, and to be further dealt with according to "law," further enacts that—"it shall not be necessary to "make such warrant returnable at any particular time, but "the same may remain in force until it shall be executed;— "and such warrant may be executed by apprehending the "offender at any place within the county, riding, division, "liberty, city, borough or place within which the justice or "justices issuing the same shall have jurisdiction,—or in case "of fresh pursuit at any place in the next adjoining county "or place, and within seven miles of the border of such first-"mentioned county, riding, division, liberty, city, borough or "place without having such warrant backed as hereinafter "mentioned;—[9] and in all cases where such warrant shall be "directed to all constables or other peace officers within the "county or other district within which the justice or justices "issuing the same shall have jurisdiction, it shall be lawful "for any constable, headborough, tithingman, borsholder, or "other peace officer for any parish, township, hamlet or place "within such county or district, to execute the said warrant "within any parish, township, hamlet or place situate within "the jurisdiction for which such justice or justices shall have "acted when he or they granted such warrant, in like manner "as if such warrant were directed specially to such constable "by name, and notwithstanding the place in which such "warrant shall be executed shall not be within the parish, "township, hamlet or place for which he shall be such con-"stable, headborough, tithingman, borsholder or other peace "officer." Then follows a proviso similar to that in sect. 9, *ante*, pp. 895, 896, as to objections and variances in the form of the summons.

11 & 12 Vict. c. 42. Sect. 10.

How warrant of apprehension executed.

By sect. 11,—"if the person against whom any such war-"rant shall be issued as aforesaid shall not be found within "the jurisdiction of the justice or justices by whom the same "shall be issued, or if he shall escape, go into, reside or be, "or be supposed or suspected to be, in any place in *England*

Regulations as to the backing of warrants. Sect. 11.

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[9] The mode of measuring distances in this and similar cases is as the crow flies (see *Reg.* v. *Saffron Walden*, 15 L. J. (N. S.) M. C. 115; 9 Q. B. 76; *Stokes* v. *Grissell*, 23 L. J. (N. S.) C. P. 141; 14 C. B. 678). The provisions of this act as to backing of warrants are contained in sects. 11—15, and are set out in paragraphs Nos. 4—8, *ante*, p. 19.

11 & 12 Vict. c. 42. Sect. 11.

"or *Wales*, out of the jurisdiction of the justice issuing such "warrant, it shall and may be lawful for any justice of the "peace for the county or place into which such person shall "so escape or go, or in which he shall reside or be, or be "supposed or suspected to be, upon proof alone being made "on oath of the handwriting of the justice issuing such war- "rant" [see *R.* v. *Kynaston*, 1 East, 117] "to make an in- "dorsement (K) on such warrant, signed with his name "authorizing the execution of such warrant within the juris- "diction of the justice making such indorsement, and which "indorsement shall be sufficient authority to the person "bringing such warrant, and to all other persons to whom "the same was originally directed, and also to all constables "and other peace officers of the county or place where such "warrant shall be so indorsed, to execute the same in such "other county or place, and to carry the person against whom "such warrant shall have issued when apprehended, before "the justice or justices of the peace who first issued the said "warrant, or before some other justice or justices of the peace "in and for the same county, riding, division, city, borough "or place, or before some justice or justices of the county, "riding, division, city, borough or place where the offence "in the said warrant mentioned appears therein to have

Proviso.

"been committed: — Provided always, that if the prose- "cutor or any of the witnesses upon the part of the pro- "secution, shall then be in the county or place where such "person shall have been so apprehended, the constable or "other person who shall have so apprehended such person "may, *if so directed by the justice backing such war- "rant*, 10 take and convey him before the justice who shall "have so backed the said warrant, or before some other justice "or justices of the same county or place;—and the said justice "or justices may thereupon take the examinations of such "prosecutor or witnesses, and proceed in every respect in "manner hereinafter directed with respect to persons charged "before a justice or justices of the peace with an offence "alleged to have been committed in another county or place "than that in which such persons have been apprehended" (*i. e.* by sect. 22, *post*, pp. 960, 961).

10 The direction here alluded to is contained in Form K in the act, Oke's "*Formulist*," 6th ed. p. 13.

An ordinary warrant for treason, felony, or breach of the peace, which we have seen, *ante*, p. 893, may be issued on a Sunday, may likewise be executed on that day. 11

When warrants may be executed.

The search warrant for stolen property mentioned at p. 899, as likewise authorized, *ante*, p. 881, to be granted on a Sunday, must be executed in the day time, if there be probable suspicion only; but where there is positive proof, it may be executed in the night time; and may, it is conceived, be executed on a Sunday. See also sect. 16 of 34 & 35 Vict. c. 112, *ante*, p. 890, as to a chief officer of police granting authority to a constable to search premises. A search warrant granted by a borough justice may be executed in the county, if within seven miles from the borough (5 & 6 Will. 4, c. 76, s. 101). Other articles than those mentioned in the warrant may be seized, if they are likely to furnish evidence of the identity of those which are specified. 12

Execution of search warrants.

It will be seen, *ante*, p. 892, that a justice may issue his warrant for the apprehension of an accused flying to a foreign country, and hear the case in the ordinary way, notwithstanding the acts as to extradition of criminals apply to the crime and the foreign country. See *post*, p. 892, as to foreign offenders.

Offenders escaped to foreign countries.

It will have been observed, by the provisions of the 11 & 12 Vict. c. 42, before noticed, that the summons to the party charged must "state shortly the *matter of such information*" (s. 9), and that the warrant must "state shortly *the offence* on "which it is founded" (s. 10); and although it is not necessary in these preliminary proceedings that the same strict rules should be adhered to as in case of indictments and summary convictions, the summons, warrants, and subsequent proceedings must show in legal terms an indictable offence cognizable by statute or at common law. 13 The following epitome of

Describing offence, property, ownership of property, &c.

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11 A warrant may be executed on a Sunday if it be to apprehend for treason, felony, or a breach of the peace (see 21 Car. 2, c. 7, s. 6); and the words "breach of the peace" have been holden to include all offences which are impliedly against the peace, as a warrant to find sureties for good behaviour (*Johnson* v. *Colston*, T. Raym. 250), but not to a warrant of commitment under a justice's order or conviction (*R.* v. *Myers*, 1 T. R. 265).

12 *Crozier* v. *Cundy*, 6 B. & C. 232; *Price* v. *Messenger*, 2 B. & P. 158. *Vide* Form of Search Warrant, Oke's "*Formulist*," 6th ed. p. 476, No. 11. The warrant will direct the apprehension of the person in whose custody the goods are found, in order to his being brought before a justice to answer the information (2 Hale's P. C. 150).

13 *Vide Note* 5, *ante*, p. 895.

enactments relative to charging certain offences in indictments may, therefore, be useful in preparing the summons, warrant, &c.:—

Ownership of property.[14]

1. The 7 Geo. 4, c. 64, ss. 14—18, provide for the manner of describing partners, property in turnpike roads and highways, and articles provided for use of poor, &c., and are the same as in the 11 & 12 Vict. c. 43, s. 4, Vol. I. p. 151:
2. Collectors of rates and assistant overseers stealing or embezzling the property may be described as belonging to the inhabitants of the parish without their names (12 & 13 Vict. c. 103, s. 15; and see *Reg.* v. *Carpenter*, 35 L. J. (N. S.) M. C. 169; 14 Law T., N. S. 572):
3. Indictments may be amended on variances between them and the evidence (14 & 15 Vict. c. 100, s. 1):
4. Goods of a convicted felon may be described as of the Queen (*Reg.* v. *Whitehead*, 9 C. & P. 429; 2 Mood. C. C. 181):
5. Goods, &c. of friendly societies are described as of the trustees, naming them (18 & 19 Vict. c. 63, s. 18; see *Reg.* v. *Loose*, 29 L. J. (N. S.) M. C. 132; 2 Law T., N. S. 254):
6. Property of a bankrupt, in the name of the registrar, or after appointment of trustee, in him (32 & 33 Vict. c. 71, ss. 17, 22):
7. Property of a trade union in the proper names of the trustees as trustees of the trade union, without further description (34 & 35 Vict. c. 31, s. 8):
8. Wages, earnings, money and property of a married woman declared to be her separate property, in her own name (33 & 34 Vict. c. 93, s. 11):
9. Post-letters, of "Her Majesty's Postmaster-General" (7 Will. 4 & 1 Vict. c. 36, s. 40); as also goods, property, &c. (11 & 12 Vict. c. 88, s. 5), and telegraphic messages (31 & 32 Vict. c. 110, s. 21), and a post-letter (32 & 33 Vict. c. 73, s. 23), and so is a book-packet or post-card (33 & 34 Vict. c. 79, s. 16):
10. Goods, &c. of a corporation, by their corporate name (see also 19 & 20 Vict. c. 47, s. 13, and 25 & 26 Vict. c. 89): joint stock companies generally, same as partners, paragraph No. 1:
11. Goods, &c. of a joint stock banking company, in the name of the registered officer (7 Geo. 4, c. 46, s. 9; 1 & 2 Vict. c. 96; 3 & 4 Vict. c. 111, and see 27 & 28 Vict. c. 32, s. 1):
12. Goods, &c. of a literary or other like institution, in the governing body of the institution, without naming the persons (17 & 18 Vict. c. 112, s. 20):

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14 Special modes of describing technically the owners of articles and property are given in Oke's "*Formulist*," 6th ed. pp. 511—514.

13. Goods, &c. of a local board of health, in their corporate name (38 & 39 Vict. c. 55, s. 7):
14. Goods, &c. of an intestate stolen after the death, and before administration granted, in the name of the judge of the Court of Probate (21 & 22 Vict. c. 95, s. 19);—of a testator, in the executor:
15. Goods, &c. of a volunteer corps, in name of commanding officer (26 & 27 Vict. c. 65, s. 25):
16. A party indicted for felony or misdemeanor may be found guilty of an attempt to commit the same, and be liable to the same consequences as if charged with and convicted of the attempt only (14 & 15 Vict. c. 100, s. 9): **The offenders.**
17. A person indicted for robbery may be found guilty of an assault with intent to rob (24 & 25 Vict. c. 96, s. 41):
18. A person tried for misdemeanor is not to be acquitted if the offence turn out to be a felony, unless the court so direct (14 & 15 Vict. c. 100, s. 12):
19. Persons guilty of separately receiving property may be included in the same indictment (24 & 25 Vict. c. 96, s. 94; and see s. 96 as to receivers):
20. Separate accessories and receivers may be charged in the same indictment with substantive felonies in the absence of the principal felon (24 & 25 Vict. c. 94, s. 6; 24 & 25 Vict. c. 96, s. 93):
21. Where several join in the commission of an offence, they may be indicted jointly, or each separately, except for perjury or seditious or blasphemous words, because these offences are in their nature several (Arch. Cr. Pl. by Welsby, 15th ed. p. 58):
22. In murder and manslaughter, it is not necessary to state the manner in which the death was caused (24 & 25 Vict. c. 100, s. 6): **Statement of offence and describing property.**[15]
23. In forgery of any instrument, no copy or *facsimile* need be set forth, but its usual name sufficient (24 & 25 Vict. c. 98, s. 42):
24. In indictments for engraving, &c. any instrument, &c., a description of instrument only necessary (24 & 25 Vict. c. 98, s. 43):
25. In all other cases, in averments in indictments as to any instrument, &c. its usual name or designation is sufficient (14 & 15 Vict. c. 100, s. 7):
26. In indictments, where the gist of the offence is an intent to defraud, it is sufficient to allege the act to have been done "with intent to defraud," without naming the person in-

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[15] *Vide* Oke's "*Formulist*," 6th ed. pp. 511—514, for the various modes of describing technically different descriptions of articles and property.

tended to be defrauded (24 & 25 Vict. c. 98, s. 44; 24 & 25 Vict. c. 96, s. 88):

27. In charges of embezzlement, three acts of embezzlement within six calendar months may be charged in one indictment (24 & 25 Vict. c. 96, s. 71); and if the offence on the evidence appear to be a larceny, the offender may be found guilty of simple larceny, or of larceny as clerk or servant (Id. s. 72).
28. Three larcenies from the same person within six months may be included in the same indictment (Id. s. 5; and see s. 6);
29. In charges of larceny against clerks or servants, if upon the evidence it appear to be embezzlement, they may be found guilty of the embezzlement (24 & 25 Vict. c. 96, s. 72; and see paragraph No. 28):
30. In charges of obtaining money, &c. by false pretences, if the offence turn out to be larceny, the offender may notwithstanding be convicted of the false pretences (Id. s. 88; and see paragraph No. 26):
31. Bank, or other notes and money, may be described as "money" without specifying the coin or notes (14 & 15 Vict. c. 100, s. 18):
32. Counts for stealing and receiving property may be joined in the same indictment (24 & 25 Vict. c. 96, s. 92):
33. Where local description is necessary to the offence, it must still be inserted in the indictment (14 & 15 Vict. c. 100, s. 23; and see paragraph No. 38):
34. Where particular words are the gist of the offence, they must be set forth with particularity:
35. A record must be described to correspond with the record itself:
36. Personal goods and chattels must be described specifically by the names usually appropriated to them:
37. For a larceny of live animals they need not be stated to be alive; if dead they must be stated to be so:
38. With reference to the special venue allowed in certain cases (see Vol. I., pp. 21—25), the offence may be laid in the summons or warrant to have been committed within the jurisdiction of the examining justice, except in cases abroad or at sea; and see paragraph No. 33.

FORMS.

[Vide B, C, and D, Nos. 6, 7, 9, Oke's "*Formulist*," 6th ed., pp. 475, 476, and K, Id. p. 7.]

2. *For Offences at Sea or Abroad.*

11 & 12 Vict. c. 42, s. 2, enacts,—"that in all cases of indictable crimes or offences of any kind or nature whatsoever committed on the high seas, or in any creek, harbour, haven or other place in which the Admiralty of England have or claim to have jurisdiction,—and in all cases of crimes or offences committed on land beyond the seas, for which an indictment may *legally be preferred in any place within England or Wales*,—it shall be lawful for any one or more of her Majesty's justices of the peace for any county, &c., within England or Wales in which any person charged with having committed, or with being suspected to have committed, any such crime or offence shall reside or be, or shall be supposed or suspected to reside or be, to issue his or their warrant (E), to apprehend the person so charged, and to cause him to be brought before him or them, or some other justice or justices of the peace for the same county, &c. to answer to the said charges, and to be further dealt with according to law." 16

11 & 12 Vict. c. 42. For offences at sea or abroad. Sect. 2.

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16 As to all of the offences referred to in this section, 11 & 12 Vict. c. 42, s. 17, pp. 945, 946, relates to the examination of offenders, and sect. 25, *post*, to the gaol to which they must be committed if not bailed, which will be the ordinary gaol to which offenders are sent by the examining justices. It may be further observed, that any justice in England will have jurisdiction to inquire into these offences whenever the offender appears or is brought before him, as will appear by the sect. 17. As to offences at sea (for which see *infra*), formerly these must have been tried only at the Central Criminal Court under 4 & 5 Will. 4, c. 36, s. 22; but by 7 & 8 Vict. c. 2, s. 1, authority is given to her Majesty's judges of assize and commissioners of oyer and terminer under any commission, to hear and determine these offences without a special commission; but this does not affect the jurisdiction of the Central Criminal Court in that respect to determine these offences at any one of their twelve sessions in the year, and persons accused of these offences are now sent to her Majesty's gaol of Newgate, London, if the assizes for the county where the offender is taken are not holden till after the Central Criminal Court sessions. See *Note* 17, p. 905, as to jurisdiction of the quarter sessions to try offences at sea. With respect to the offences committed on land abroad for which indictments may be preferred "in *any* place" in England, here referred to, see the enactments, pp. 909—911, from which it will be seen that some of these offences are to be tried in the Queen's Bench, and not at the assizes or sessions. In *Ex parte Eyre, late Governor of Jamaica* (37 L. J. (N. S.) M. C. 159; *S. C., Reg.* v. *Vaughan*, 9 B. & S. 329), in a prosecution of this class under the Colonial Governors' Acts, 11 & 12 Will. 3, c. 12, and 42 Geo. 3, c. 85, *post*, pp. 911, 912, it was held that the words "*any* place" in the section in the text did not restrict the jurisdiction of justices to a case in which a prosecutor must proceed in *one* particular place, but that the section applied to *every* case, and in this as well as in any other; and that a commitment might be made under sect. 25 of 11 & 12 Vict. c. 42, to the ordinary gaol, notwithstanding the offender

11 & 12 Vict. c. 42.

What offences at sea are punishable here.

With reference to offences at sea referred to in the above enactment, it may be stated, that the Admiralty have exclusive jurisdiction of all indictable crimes and offences committed on the high seas, or within the harbours, creeks and havens of foreign countries (see the recent case of *Reg.* v. *Anderson*, 38 L. J. (N. S.) M. C. 12; 19 Law T., N. S. 400, confirmatory of this statement of the law); but within the harbours, creeks and havens of this country the courts of common law, and not the Admiralty, have jurisdiction: as for instance, if an imaginary line were drawn across the mouth of such creek, &c., from one point of land to the other, the common law would have jurisdiction of all offences committed within such line; the Admiralty, of all offences committed without it. As to the seashore below low water mark, the Admiralty have exclusive jurisdiction; above high water mark the courts of common law have exclusive jurisdiction; and between high and low water mark, the courts of common law and the Admiralty have alternate jurisdiction; the courts of common law have jurisdiction of all offences committed on the strand when the tide is out—the Admiralty, jurisdiction of offences committed on the water when the tide is in (see 1 Russell on Cr., 4th ed. p. 153; Arch. Cr. Pl. by Welsby, 15th ed. pp. 25, 26, 27, 365, 366). In the Criminal Law Acts, 1861, and other acts there are provisions as to the nature and trial of these offences in England when committed on the high seas or within the jurisdiction of the Admiralty by British subjects, by which they are deemed to be offences of the same nature and subject to the same punishments as if committed on land in England or Ireland, and may be dealt with in the place where the offenders are apprehended or are in custody, 17 viz. offences against the person, 24 & 25 Vict. c. 100, s. 10, *post*, p. 912, and s. 68;—offences relating to the coin, 24 & 25 Vict. c. 99, s. 36; —offences relating to the post office, 1 Vict. c. 36, s. 39;—larceny and other similar offences, 24 & 25 Vict. c. 96, s. 115;—malicious injuries to property, 24 & 25 Vict. c. 97, s. 72; forgery, 24 & 25 Vict. c. 98, s. 50;—piracy at common law and by statute (for which see *Note* under title "*Piracy*," Chap. II. of this Part, *post*);—all treasons, murders, felonies and conspiracies, 28 Hen. 8, c. 15 (see *R.* v. *Serva*, 2 Car. & K. 53)—and generally all other offences committed on the high seas, out of the body of any county, 39 Geo. 3,

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was to be tried in the Court of Queen's Bench. Although the section in the text speaks of the issue of a warrant only, a summons may be issued under the provisions of 11 & 12 Vict. c. 42, s. 1, *ante*, p. 894, if that process will suffice.

17 In *Reg.* v. *Peel* (32 L. J. (N. S.) M. C. 65; 1 Leigh & Cave, C. C. 231), it was held that a court of quarter sessions has, by 24 & 25 Vict. c. 96, s. 115, jurisdiction over the offence of larceny when committed upon the high seas, if the offender is apprehended within the jurisdiction of such court.

c. 37; 7 & 8 Vict. c. 2, ss. 1—4 (see *Reg.* v. *Cunningham and others*, 28 L. J. (N. S.) M. C. 66; 1 Bell, C. C. 72; *Reg.* v. *Lesley*, 1 Bell, C. C. 234; 29 L. J. (N. S.) M. C. 97. As to accessories to felonies at sea, see 24 & 25 Vict. c. 94, ss. 7, 9, *ante*, p. 885. All other offences committed at sea are punishable in the same manner as if committed on land (7 & 8 Geo. 4, c. 28, s. 12). Also, by s. 267 of the Merchant Shipping Act, 1854, 17 & 18 Vict. c. 104, "all offences against property or person committed in or at any place, either ashore or afloat, out of her Majesty's dominions, by any *master, seaman or apprentice*, who at the time when the offence is committed is, or within three months previously has been, employed in any British ship, shall be deemed to be offences of the same nature respectively, and be liable to the same punishments respectively, and be inquired of, heard, tried, determined and adjudged in the same manner, and by the same courts, and in the same places, as if such offences had been committed within the jurisdiction of the Admiralty of England." Provision is then made by ss. 268—271, for the consular officer taking the depositions of the witnesses to the offence and sending the accused to England to be proceeded against, the master of the ship bringing him being required on arrival to hand the accused to a constable to be taken before a justice; and the depositions taken by the consular officer are to be received in evidence here when authenticated and taken in the presence of the accused if the witnesses cannot be produced (as to evidence of their not being in the United Kingdom, see *Reg.* v. *Conning*, 11 Cox, C. C. 134; Willes, J., and *Reg.* v. *Anderson*, Id. 154, Lush, J.). Also by sect. 275 of the Customs Consolidation Act, 1853, 16 & 17 Vict. c. 107, "where any offence shall be committed in any place upon the water not being within any county of the United Kingdom, or where the officers have any doubt whether such place is within the boundaries or limits of any such county, such offence shall, *for the purposes of this act*, be deemed and taken to be an offence committed on the high seas;—and for the purpose of giving jurisdiction under this act, every offence shall be deemed to have been committed, and every cause of complaint to have arisen, either in the place in which the same was actually committed or arose, or in any place on land where the offender or person complained against may be or be brought." But these enactments do not appear to extend to foreigners committing offences on board foreign ships. In *Reg.* v. *Lewis*, 26 L. J. (N. S.) M. C. 104; 1 Dears. & Bell, C. C. 182, it was held, that where one foreigner inflicts a blow on another foreigner in a foreign ship on the high seas, and the person so struck in a few days afterwards lands in England and dies there, the homicide is not cognizable by the courts of this country by virtue of the statute 9 Geo. 4, c. 31, ss. 7 or 8 (now repealed, but its corresponding provision is 24 & 25 Vict. c. 100, s. 9,

What offences at sea are punishable here.

17 & 18 Vict. c. 104, ss. 267—271.

16 & 17 Vict. c. 107, s. 275.

What offences at sea are punishable here.

18 & 19 Vict. c. 91, s. 21.

p. 907). By sect. 21 of the amended Merchant Shipping Act, 18 & 19 Vict. c. 91, "if any person, being a *British* subject, charged with having committed any crime or offence on board any *British* ship 18 on the high seas or in any foreign port or harbour,—or if any person, *not being a British* subject, charged with having committed any crime or offence on board any *British* ship on the high seas,—is *found* within the jurisdiction of any court of justice in her Majesty's dominions, which would have had cognizance of such crime or offence if committed within the limits of its ordinary jurisdiction, such court shall have jurisdiction to hear and try the case as if such crime or offence had been committed within such limits:—provided, that nothing contained in this section shall be construed to alter or interfere with the 12 & 13 Vict. c. 96." 19

30 & 31 Vict. c. 124, s. 11.

The Merchant Shipping Act, 1867, 30 & 31 Vict. c. 124, s. 11, contains a further provision as to offences by British subjects on board ships:—it enacts, "if any *British* subject commits any crime or offence on board any *British* ship,—or on board any foreign ship to which he does not belong,—any court of justice in her Majesty's dominions, which would have had cognizance of such crime or offence if committed on board a *British* ship within the limits of the ordinary jurisdiction of such court, shall have jurisdiction to hear and determine the case as if the said crime or offence had been committed as last aforesaid." In two cases (*Reg.* v. *Lopez* and *Reg.* v. *Sattler*, 27 L. J. (N. S.) M. C. 48; 1 Dears. & Bell, C. C. 525), it was decided that the meaning of the words "is found" in section 21 of 18 & 19 Vict. c. 91, is the same as if the words "is actually present" [at the time of his trial] had been used. In the first of these cases, L., a foreign sailor, and one of the crew of the British ship O., maliciously and unlawfully wounded the prosecutor, also a foreigner and one of the crew of the same ship, whilst on the high seas and in the said ship, on a voyage from London to the coast of Africa. L. was brought against his will to England and the county of Devon, indicted there for having feloniously wounded the prosecutor with intent to do him some grievous bodily harm, and convicted of unlawfully wounding:—it was held, that L., being in a British ship, and under the protection of the British law, owed obedience to that law; and that as

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18 The ship must belong to a British subject. See *Reg.* v. *Bjornsen*, 34 L. J. (N. S.) M. C. 180; 1 Leigh & Cave, C. C. 545; and definition in *Note* 298, *ante*, p. 578. It is not necessary to prove the register or ownership of the ship under the Merchant Shipping Act, 1854, but it is sufficient if some of the crew prove that she belonged to an English port and was sailing under the British flag (see *Reg.* v. *Von Seberg*, 39 L. J. (N. S.) M. C. 133; 22 Law T., N. S. 523).

19 The 12 & 13 Vict. c. 96, relates to the trial in the Colonies of offences committed within the jurisdiction of the Admiralty. It has been amended by 23 & 24 Vict. c. 88, and extended to India.

the offence, if committed in the county of Devon, would have been cognizable by the court before which L. was convicted, that court had jurisdiction to try him under the 18 & 19 Vict. c. 91, s. 21. In the other case, S., a foreigner, committed a larceny in Huntingdonshire, and was afterwards arrested at Hamburg, with the assistance of the Hamburg police, by T., a city of London detective officer, who placed him against his will on board an English steamer lying in the river Elbe, in order that he might be conveyed to England for trial for the larceny. The steamer sailed for England with S. and the officer on board, and whilst the steamer was on the high seas, S., he then being in irons, shot the officer, who afterwards died in England of the wound. S. was indicted at the Central Criminal Court for murder, and convicted, the jury finding that he shot the constable out of malice and revenge, and not to effect his own liberation:—it was held, that the Central Criminal Court had jurisdiction to try S. under the 18 & 19 Vict. c. 91, s. 21, inasmuch as S., while in a British ship on the high seas and entitled to the protection of the British law, and therefore subject to that law, had committed murder, which made it immaterial whether his capture at Hamburg, or his detention at the time of committing the crime, was lawful or unlawful.

What offences at sea are punishable here.

As to that part of the enactment, 11 & 12 Vict. c. 42, s. 2, *ante*, p. 903, with reference to the offences abroad for which an indictment may be preferred in England, the following are the provisions of certain acts and the cases bearing on them:—By 24 & 25 Vict. c. 100, s. 9 (which is in effect a re-enactment of 9 Geo. 4, c. 31, s. 7), "where any *murder or manslaughter* shall be committed on land out of the United Kingdom, whether within the Queen's dominions or without, and whether the person killed were a subject of her Majesty or not, every offence committed *by any subject of her Majesty*, in respect of any such case, whether the same shall amount to the *offence of murder or manslaughter*, or of *being accessory to murder or manslaughter*, may be dealt with, inquired of, tried, determined and punished in any county or place in England or Ireland in which such person shall be apprehended or be in custody, in the same manner in all respects as if such offence had been actually committed in that county or place;—provided that nothing herein contained shall prevent any person from being tried in any place out of England or Ireland for any murder or manslaughter committed out of England or Ireland, in the same manner as such person might have been tried before the passing of this act." See further, p. 909, as to Accessories, &c. This enactment does not extend to offences committed by foreigners, notwithstanding they are committed on Englishmen and on board an English ship (*R.* v. *Depardo*, 1 Taunt. 26; R. & R. 134; *R.* v. *Helsham*, 4 C. & P. 394; *R.* v. *Manoel de Mattos*, 7 C. & P. 458; *R.* v. *Serva*, 1 Den. C. C. 104,

What offences abroad are punishable here.

24 & 25 Vict. c. 100, s. 9.

What offences abroad are punishable here.

24 & 25 Vict. c. 100, s. 9.

185; 2 C. & K. 53; *Reg.* v. *Lewis, supra*); but it comprehends all countries, though within the dominion of a foreign power (*R.* v. *Sawyer*, R. & R. 294). However, as respects offences by foreigners on board British ships on the high seas [or in a foreign port, *Reg.* v. *Anderson*, noticed *ante*, p. 904], as well as offences by British subjects on board British ships on the high seas or in any *foreign port or harbour* (18 & 19 Vict. c. 91, s. 21; and *Reg.* v. *Lopez* and *Reg.* v. *Sattler*, noticed *ante*, p. 908),—or offences by British subjects on board British ships or on board foreign ships, to which they do not belong (30 & 31 Vict. c. 124, s. 11, *ante*, p. 906),—or offences by any master, seaman or apprentice of any British ship *either ashore or afloat* (17 & 18 Vict. c. 104, s. 267, *ante*, p. 905), or offences relating to the customs *on the water* (16 & 17 Vict. c. 107, s. 275, *ante*, p. 905),—they may be tried in England.

Sect. 10.

Also, by 24 & 25 Vict. c. 100, s. 10 (which is a re-enactment of 9 Geo. 4, c. 31, s. 8), "where any person, being feloniously stricken, poisoned, or otherwise hurt upon the *sea, or at any place out of* England or Ireland, shall die of such stroke, poisoning or hurt *in* England or Ireland,—or being feloniously stricken, poisoned, or otherwise hurt at any place *in* England or Ireland, shall die of such stroke, poisoning, or hurt *upon the sea, or at any place out of* England or Ireland,—every offence committed in respect of any such case, whether the same shall amount to the offence of *murder or of manslaughter*, or *of being accessory to murder or manslaughter*, may be dealt with, inquired of, tried, determined and punished in the county or place in England or Ireland in which such *death, stroke, poisoning or hurt shall happen*, in the same manner in all respects as if such offence had been wholly committed in that county or place."[20] In *Reg.* v. *Lewis*, noticed *ante*, p. 905, it was held that this enactment does not extend to a foreigner who dies in England from a blow inflicted by another foreigner in a foreign vessel on the high seas, but it would if the offence was committed on land within our dominions abroad, if the offender is a British subject or an alien subject to our laws, and the murdered person is a foreigner (*Reg.* v. *Azzopardi*, 2 Mood. C. C. 288; 1 C. & K. 203). In *Nga Hoong* v. *Reg.* (7 Cox's C. C. 489; 30 Law T. 356), it was held, that the corresponding section in 9 Geo. 4, c. 31, s. 8, did not extend the jurisdiction to persons who were not otherwise amenable to such jurisdiction, but applies only to cases in which the felony has been committed by persons who could commit that felony partly within and partly without the jurisdiction, and not to cases where the whole offence is committed in one jurisdiction.

There are other offences committed abroad which may be tried in

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20 The 23 & 24 Vict. c. 122, authorizes the legislatures of possessions abroad to make ordinances enacting to the like effect as this section.

this country upon indictments: as burning or destroying the Queen's ships, magazines, &c. out of the realm, the venue may be laid in any county within the realm (12 Geo. 3, c. 24, s. 2; Arch. Cr. Pl. by Welsby, 15th ed. pp. 24, 25). For robbery and other crimes committed in Newfoundland, the venue may be laid in any county in England (10 & 11 Will. 3, c. 25, s. 13). As to offences against the Foreign Enlistment Act, 1870, see 33 & 34 Vict. c. 90, ss. 16, 17, 18. Misdemeanors committed in India may be tried in the Queen's Bench in England (13 Geo. 3, c. 63). Governors of colonies guilty of oppressing any of her Majesty's subjects beyond seas, *or* who shall be guilty of any other crime or offence, may be tried in the Court of Queen's Bench (11 & 12 Will. 3, c. 12). And by 42 Geo. 3, c. 85, any person employed in any civil or military station, office or capacity out of Great Britain guilty of any crime, misdemeanor or offence in the execution, or under colour, or in the execution of any such station, office or capacity, may be prosecuted and tried in the Queen's Bench in England, either upon an information exhibited by the attorney-general, or upon indictment found; in which such crime shall be laid to have been committed in Middlesex (see *R.* v. *Shawe*, 5 M. & Selw. 405, and *Ex parte Eyre, late Governor of Jamaica*, 37 L. J. (N. S.) M. C. 159; *S. C.*, *Reg.* v. *Vaughan*, 9 B. & S. 329). Perjury in pleas, answers, affidavits, &c. taken out of England in relation to Crown suits, are triable in England where offender is in custody (28 & 29 Vict. c. 104, ss. 19, 43). As to offences committed in foreign countries with which we have now or may have extradition treaties, or in the Colonies, and the offenders flying to this country, see *post*, p. 914. As to the trial of offenders in the Colonies for crimes committed in places in which the Crown has power or jurisdiction out of her Majesty's dominions, see 6 & 7 Vict. c. 94, and the act 28 & 29 Vict. c. 116, explaining the term "British Colony" used in it, which is to include any of H. M.'s possessions out of the United Kingdom, under the first of which acts orders in council have been made creating a consular jurisdiction with respect to offences committed by British subjects in certain empires; and see also 29 & 30 Vict. c. 87.

What offences abroad are punishable here.

By 24 & 25 Vict. c. 100, s. 4, persons conspiring here to murder any person, whether he be a subject of her Majesty or not, and whether he be within the Queen's dominions or not, and persons soliciting another to murder such person, are guilty of a misdemeanor. As to other offences in respect to foreign countries or powers, which are complete in this country,—such as other conspiracies, as to commit frauds or felonies, although the overt acts are abroad (see *Reg.* v. *Kohn*, 4 F. & F. 68, which was a conspiracy here to scuttle a Prussian ship at sea or in port), and also libels, &c., *i. e.* libels published in this country reflecting on persons holding situations of power and dignity in foreign countries (see

Conspiracies and other offences here in respect to foreign countries or powers.

R. v. *Peltier*, Holt on Libel, 78, &c.; *R.* v. *D'Eon*, 1 W. Bl. 517; *R.* v. *Lord George Gordon*, 2 Stark. on Slander, 217, 2nd ed.),—they have been held to be punishable here. It is yet a moot question whether in cases of offences partly committed in this country and partly abroad they can be tried here. As respects an accessory before the fact, and therefore a principal (24 & 25 Vict. c. 94, ss. 1, 2, 7, *ante*, pp. 886, 887) here to a murder abroad, he would not be punishable in this country under the 24 & 25 Vict. c. 100, s. 9 (*ante*, p. 888), if the principal offenders, when *foreigners*, are not; but abettors here in misdemeanors (including the conspiracy to murder a person abroad, mentioned *supra*) would be (24 & 25 Vict. c. 94, s. 8, *ante*, p. 888). See *Reg.* v. *Bernard*, 1 F. & F. 240, and also the case of *Reg.* v. *Sans Garrett*, 23 L. J. (N. S.) M. C. 20; 1 Dears. C. C. 232, which seems to have an important bearing on the question whether the offence must not be whole and complete in this country. If a person, however, in a foreign country forges a document here, and sets other persons in motion as his agents, by whom the forged document is presented at a bank in England, that is an uttering of which he may be convicted here (per *Pigott*, J., Maidstone Assizes, July, 1865). But a person cannot be convicted here of receiving goods here which had been stolen in Guernsey (*Reg.* v. *Debruiel*, 11 Cox, C. C. 207, Byles, J.).

See further, *post*, Divisions 5, 6, 7 of this section of Chap. I.

FORM.

[*Vide* E, No. 12, Oke's "*Formulist*," 6th ed. p. 477.]

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3. *Where an Indictment found.* 21

11 & 12 Vict. c. 42.

Where indictment found, and accused at large.

Sect. 3.

11 & 12 Vict. c. 42, s. 3, enacts,—"that where an indictment "shall be found by the grand jury in any court of oyer and "terminer or general gaol delivery, or in any court of general "or quarter sessions of the peace, against any person who shall "then be at large,—and whether such person shall have been "bound by any recognizance to appear to answer to the same "or not,—the person who shall act as clerk of the indictments "at such court of oyer and terminer or gaol delivery, or as "clerk of the peace at such sessions, at which the said indict-"ment shall be found, shall at any time afterwards,—after the

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21 Indictments cannot be presented or found for certain offences without the charge having been first investigated before justices or the prosecution ordered by the Crown, &c. See 22 & 23 Vict. c. 17, *ante*, p. 874.

"end of the sessions of oyer and terminer or gaol delivery or "sessions of the peace at which such indictment shall have "been found, upon application of the prosecutor, or of any "person on his behalf, and on payment of a fee of one shilling, "if such person shall not have already appeared and pleaded "to such indictment,—grant unto such prosecutor or person a "certificate (F) of such indictment having been found; 22— "and upon production of such certificate to any justice or "justices of the peace for any county, riding, division, liberty, "city, borough or place in which the offence shall in such in-"dictment be alleged to have been committed, or in which the "person indicted in and by such indictment shall reside or be, "or be supposed or suspected to reside or be, it shall be lawful "for such justice or justices, and he or they are hereby re-"quired, to issue his or their warrant (G) to apprehend such "person so indicted, and to cause him to be brought before "such justice or justices, or any other justice or justices for "the same county, &c., to be dealt with according to law,— "and afterwards, if such person be thereupon apprehended "and brought before any such justice or justices, such justice "or justices, upon its being proved upon oath or affirmation 23 "before him or them that the person so apprehended is the "same person who is charged and named in such indictment, "shall, without further inquiry or examination, commit (H) "him for trial, or admit him to bail, in manner hereinafter "mentioned;—or if such person so indicted shall be confined "in any gaol or prison for any other offence than that charged "in the said indictment at the time of such application and "production of the said certificate to such justice or justices "as aforesaid, it shall be lawful for such justice or justices "and he or they are hereby required, upon its being proved "before him or them upon oath or affirmation 24 that the "person so indicted and the person so confined in prison are "one and the same person, to issue his or their warrant (I) "directed to the gaoler or keeper of the gaol or prison in

11 & 12 Vict. c. 42. Sect. 3.

On production of certificate, justices to grant warrant of apprehension.

Where accused is in custody.

Justices to grant a detainer.

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22 It is the practice of the Central Criminal Court, when granting a bench warrant on an indictment or granting this certificate, to require the prosecutor (if not already bound by the justices) to enter into a recognizance to prosecute the indictment. *Hill*, J., however, held, in *Reg.* v. *Whittaker*, 2 F. & F. 1, that bench warrants are not to be granted unless it is necessary that the party charged should be at once taken into custody.

23 *Vide* Deposition, Oke's "*Formulist*," 6th edit. p. 478, No. 16.

24 *Vide* Deposition, Oke's "*Formulist*," 6th edit. p. 479, No. 18.

"which the person so indicted shall then be confined as afore-
"said, commanding him to detain such person in his custody,
"until by her Majesty's writ of habeas corpus he shall be
"removed therefrom, for the purpose of being tried upon the
"said indictment, or until he shall otherwise be removed or
"discharged out of his custody by due course of law."

FORMS.

[*Vide* F, G, H, and I, Nos. 13, 15, 17, 19, Oke's "*Formulist*," 6th ed. pp. 477—479.

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4. *Apprehension of Offenders without Warrant.*

Arrests without warrant,

As to arrests without a warrant the law may be concisely stated :—

For treason or treason felony committed in any part of the United Kingdom, the person charged, wheresoever found, there or in any other part, may be taken and detained upon probable cause of suspicion without warrant.

So, likewise, by the common law, a person who has committed a felony in any part of her Majesty's dominions abroad, or in a foreign country (whether he is a British subject or not, or whether we have an extradition treaty with such country or not), may be arrested here or in any part of her Majesty's dominions without warrant and taken before a magistrate, to be dealt with as the law authorizes in the respective cases.

—by whom and under what circumstances.

As to the person who is authorized to arrest an offender, any person who is present when a felony is committed may at once apprehend the party and take him before a magistrate, to be dealt with according to law; in case of a private individual, however, it is his duty, if no justice can at once be found, to hand the offender over to some constable (3 Hawk. 156). But where the offence is not committed in the presence of the party, this distinction exists between the powers of a constable and private individual,—a constable may not only apprehend a party against whom a reasonable charge of felony is made by another person, although it may afterwards turn out that no felony has in fact been committed, 25 but he may apprehend a person upon his own suspicion alone of having committed a felony, though in the result it appear that no

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25 *Hobbs* v. *Branscombe*, 3 Camp. 420; *Davis* v. *Russell*, 5 Bing. 354; *Cowles* v. *Dunbar*, M. & M. 37.

crime has been committed; 26 but he should act with becoming caution and upon a reasonable ground of suspicion; 27 and if, after the apprehension, the constable is guilty of any unnecessary delay in taking the party before a justice, or is guilty of any excess or abuse of power, he will still be liable to an action.28 But with regard to arrests by private persons without a warrant, although they are bound to capture, if possible, a party committing a felony in their presence (see 2 Hale, c. 13, s. 5; 2 Hawk. c. 12, s. 1; c. 13, s. 15), yet, if a man choose to apprehend another without a warrant upon *suspicion* alone of felony, he will do so at his peril; for should no felony in point of fact have been committed, an action will lie against him for false imprisonment, as suspicion alone is not enough to justify a private individual in making an arrest, but whether arrested legally or illegally is immaterial for the purpose of the magistrates' jurisdiction to inquire into the offence and remand the accused.29 A person may be arrested on a Sunday for any indictable offence.30

Arrests without warrant authorized by particular statutes.

In addition to these authorities, 14 & 15 Vict. c. 19, s. 11, contains a general enactment, and authorizes "any person "whatsoever to apprehend any person who shall be found "committing *any indictable offence* by night," which means the same as in burglary, *i. e.*, then under 7 Will. 4 & 1 Vict. c. 86, s. 4, between 9 o'clock p.m. and 6 a.m., which is the same as now under 24 & 25 Vict. c. 96, s. 1. Various other statutes authorize constables and others to apprehend persons *found committing* 31 felonies and indictable misdemeanors likewise without a justice's warrant, viz.:—

Under the Larceny Act, 24 & 25 Vict. c. 96, s. 103, which applies to offences under the titles *Agents, Burglary, Cattle, Embezzlement, False Pretences, Fish, Fraudulent Trustees, Game, Housebreaking, Larceny, Receivers, Reward, Sacrilege, &c.*:

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26 *Lawrence* v. *Hedger*, 3 Taunt. 14; *Nicholson* v. *Hardwick*, 5 C. & P. 495. See *Reg.* v. *Tuberfield*, 11 Law T., N. S. 385; and 3 Russell on Cr., 4th ed. p. 304, note.

27 *Beckwith* v. *Philby*, 6 B. & C. 635; *Moore* v. *Kays*, 4 Taunt. 34; *Hogg* v. *Ward*, 27 L. J. (N. S.) Exch. 443; 31 Law T. 184.

28 *Wright* v. *Court*, 4 B. & C. 595; *Davis* v. *Capper*, 10 B. & C. 28; *Colman* v. *Griffin*, 23 J. P. 327.

29 *Stonehouse* v. *Elliott*, 6 T. R. 315; *West* v. *Baxendale*, 2 Com. B. Rep. 141; *Ex parte Kaus*, 1 B. & C. 258; *Hall* v. *Booth*, 3 Nev. & Man. 316; *Beckwith* v. *Philby*, 6 B. & C. 635.

30 *Rawlins* v. *Ellis*, 16 M. & W. 172; 16 L. J. (N. S.) Exch. 5.

31 See decisions upon the words "found committing," *Note* 251, *ante*, p. 534; and see *Downing* v. *Capel*, 36 L. J. (N. S.) M. C. 97; 16 Law T., N. S. 323.

Under the Malicious Injuries Act, 24 & 25 Vict. c. 97, s. 61, applicable to titles *Arson, Cattle, Malicious Injuries, Railways, Riots, Telegraphs, &c.:*

Under the Coinage Offences Act, 24 & 25 Vict. c. 99, s. 31, applicable to title *Coin.*

By three of the Criminal Law Consolidation Acts of 1861, persons loitering in the night [from 9 p.m. to 6 a.m., 24 & 25 Vict. c. 96, s. 1], and suspected of having committed or being about to commit any felony under the acts, may be taken into custody by any constable or peace officer without warrant (24 & 25 Vict. c. 96, s. 104; 24 & 25 Vict. c. 97, s. 57; 24 & 25 Vict. c. 100, s. 66).

Under the title *Queen*, discharging or aiming fire-arms at, &c. (5 & 6 Vict. c. 51).

Under the title *Smuggling*, see 16 & 17 Vict. c. 107, s. 244, &c.

Arrests for common law offences.

Many other arrests also may be made under the common law by a constable and others for offences in his presence which are misdemeanors, for instance,—affrays, prize-fighting, or riots, child-dropping, assaults, 32 and where dangerous wounds are inflicted, and generally all breaches of the peace.

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5. *Extradition of Criminals*, i. e., *Offenders surrendered to or by Foreign States under Treaties with this Country.*

It may be premised that any justice, whether he be a police or stipendiary magistrate at Bow Street or elsewhere, or unpaid, may receive an information for an offence committed within his jurisdiction in England and grant a warrant for the apprehension of an accused who has fled to another country, whether the act as to extradition of criminals applies to the crime and the foreign country or not, as that act is not intended to and does not interfere with the jurisdiction of justices in this respect, (see p. 531, as to course of procedure,) nor to the hearing of the case when the accused is apprehended. But still it will be seen by the provisions of that act *infra*, that the jurisdiction of the ordinary justices of the peace is excluded from the principal duties connected with the extradition of criminals flying to this country—*i. e.*, hearing the charges—and is given to the chief or police magistrate at Bow Street,

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32 See *Jordan* v. *Gibbon*, 8 Law T., N. S. 391; *Reg.* v. *Light*, 27 L. J. (N. S.) M. C. 1; *Bowditch* v. *Fosberry*, 19 L. J., Exch. 339.

London (see ss. 8, 9, 10 and 11 of 33 & 34 Vict. c. 52, pp. 921—923), and to a stipendiary magistrate as to crimes at sea (s. 16, p. 924). "The Extradition Act, 1870," 33 & 34 Vict. c. 52, intituled "An Act for amending the Law relating to the "Extradition of Criminals," passed on the 9th August, 1870, recites that "it is expedient to amend the law relating to the "surrender to foreign states of persons accused or convicted "of the commission of certain crimes within the jurisdiction "of such states, and to the trial of criminals surrendered by "foreign states to this country." By it (s. 27, *supra*) the following acts in the third schedule as to the extradition of offenders escaping from or to France, the United States of America, and Denmark (which were then the only foreign states with whom there were extradition conventions or treaties in force),—

Extradition of criminals, i.e. offenders surrendered to or by foreign states under treaties with this country.

33 & 34 Vict. c. 52.

6 & 7 Vict. c. 75, as to the convention with France,
6 & 7 Vict. c. 76, as to the treaty with America, and
25 & 26 Vict. c. 76, as to the convention with Denmark,
together with 8 & 9 Vict. c. 120, and 29 & 30 Vict. c. 121, as to procedure under these acts,

were repealed;—and in future this act of 33 & 34 Vict. c. 52, is to apply to any foreign state when an arrangement is made by a treaty as to the surrender of fugitive criminals, and an order in council is made directing the act to apply to such foreign state (ss. 2, 3, p. 919); and as regards the foreign states with which this country had already treaties,—*i. e.*, France, America, and Denmark,—the act is, by sect. 27, to apply as if an order in council referring to such treaties had been made in pursuance of this act. The section 27 referred to is as follows,—

Sect. 27. "The acts specified in the third schedule to this act are hereby repealed as to the whole of her Majesty's dominions;—and this act (with the exception of anything contained in it which is inconsistent with the treaties referred to in the acts so repealed 33)

Repeal of acts in third schedule.

Sect. 27.

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33 As to France, the 6 & 7 Vict. c. 75, recited the convention as follows:—"Whereas by a convention between her Majesty and the King of the French, signed at London on the 13th day of February, 1843, the ratifications whereof were exchanged at London on the 13th day of March in the same year, it was agreed, 'that the high contracting parties should, on requisition made in their name through the medium of their respective diplomatic agents, deliver up to justice persons who, being accused of the crimes of murder (comprehending the crimes designated in the French Penal Code by the terms assassination, parricide, infanticide, and poisoning), or of an attempt to commit murder, or of forgery, or of fraudulent

Terms of convention made with France in 1843, confirmed by 6 & 7 Vict. c. 75.

33 & 34 Vict. c. 52.

shall apply (as regards crimes committed either before or after the passing of this act), in the case of the foreign states with which

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bankruptcy, committed within the jurisdiction of the requiring party, should seek an asylum or should be found within the territories of the other;—provided that this should be done only when the commission of the crime should be so established as that the laws of the country where the fugitive or person so accused should be found would justify his apprehension and commitment for trial if the crime had been there committed;' and it is by the said convention further stipulated, 'that on the part of the British government the surrender should be made only on the report of a judge or magistrate duly authorized to take cognizance of the acts charged against the fugitive in the warrant of arrest or other equivalent judicial document issued by a judge or competent magistrate in France, and likewise clearly setting forth the said acts;' and it is by the said convention further stipulated and agreed, 'that the expenses of any detention and surrender made in virtue of the stipulations hereinbefore recited should be borne and defrayed by the government in whose name the requisition should have been made;' and it is by the said convention further stipulated and agreed, 'that the provisions of the said convention should not apply in any manner to crimes of murder, forgery, or fraudulent bankruptcy committed antecedently to the date thereof;' and it is by the said convention further stipulated and agreed, 'that the said convention should be in force until after the first day of January, 1844, after which date either of the high contracting parties should be at liberty to give notice to the other of its intention to put an end to it, and it should altogether cease and determine at the expiration of six months from the date of such notice.'"

Terms of treaty made with America in 1842, confirmed by 6 & 7 Vict. c. 76.

As to the United States of America, the 6 & 7 Vict. c. 76, recited the treaty as follows:—"Whereas by the tenth article of a treaty between her Majesty and the United States of America, signed at Washington on the 9th day of August, 1842, the ratifications whereof were exchanged at London on the 13th day of October in the same year, it was agreed that her Majesty and the said United States should, upon mutual requisitions by them or their ministers, officers, or authorities respectively made, deliver up to justices all persons who, being charged with the crime of murder, or assault with intent to commit murder, or piracy, or arson, or robbery, or forgery, or the utterance of forged paper, committed within the jurisdiction of either of the high contracting parties, should seek an asylum or should be found within the territories of the other;—provided that this should only be done upon such evidence of criminality as according to the laws of the place where the fugitive or person so charged should be found would justify his apprehension and commitment for trial if the crime or offence had been there committed, and that the respective judges and other magistrates of the two governments should have power, jurisdiction, and authority, upon complaint made under oath, to issue a warrant for the apprehension of the fugitive or person so charged, so that he might be brought before such judges or other magistrates respectively, to the end that the evidence of criminality might be heard and considered,—and if on such hearing the evidence should be deemed sufficient to sustain the charge, it should be the duty of the examining judge or magistrate to certify the same to the proper executive authority, that a warrant might issue for the surrender of such fugitive, and that the expense of such apprehension and delivery should be borne and defrayed by the party making the requisition and receiving the fugitive;—and it is by the eleventh article of the said treaty further agreed, that the tenth article, hereinbefore recited, should continue in force until one or other of the high contracting parties should signify its wish to terminate it, and no longer."

Terms of convention made

As to Denmark, the 25 & 26 Vict. c. 70, recited a convention between her Majesty and the King of Denmark, set forth in the schedule, signed

those treaties are made, in the same manner as if an order in council referring to such treaties had been made in pursuance of this act, and as if such order had directed that every law and ordinance which is in force in any British possession with respect

33 & 34 Vict. c. 52. Sect. 27.

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on 15th April, 1862, and ratified on 27th May, 1862, the articles of which are as follows:—"It is agreed that the high contracting parties shall, on requisition made in their name through the medium of their respective diplomatic agents, deliver up to justice persons who, being accused or convicted of murder (comprehending the crimes of assassination, parricide, infanticide, and poisoning) or attempt to commit murder, or of forgery (comprehending the counterfeiting of bank notes, or public securities, or money), or of fraudulent bankruptcy, committed within the jurisdiction of the requiring party, shall be found within the territories of the other, provided that such persons are not subjects of the party upon which the requisition is made. Provided also, that in the case of a person accused, the surrender shall be made only when the commission of the crime shall be so established as that the laws of the country where the fugitive or person so accused shall be found would justify his apprehension and commitment for trial if the crime had been there committed, and in the case of a person convicted, the surrender shall be made only on the production of an authenticated copy of his conviction and on proof of his identity. Consequently, on the part of the Danish Government, the surrender shall be made only by the consent of the minister to whose department appertains the administration of justice, and after the production, in the case of a person accused, of a warrant of arrest or other equivalent judicial document issued by a judge or other competent authority in the United Kingdom, clearly setting forth the acts for which the fugitive shall have rendered himself accountable, or in the case of a person convicted, on the production of an authenticated copy of his conviction and on proof of his identity. On the part of the British Government, the surrender in the case of a person accused shall be made only on the warrant or other equivalent judicial document for the arrest of a fugitive, issued by a judge or magistrate duly authorized to take cognizance of the acts charged against the fugitive in Denmark, and on duly-authenticated depositions or statements on oath before such judge or magistrate, clearly setting forth the said acts, or on such other evidence thereof as, according to the laws of England, would warrant the apprehension of the said fugitive and his committal for trial for the said acts, if they had been therein committed, or in the case of a person convicted, on the production of an authenticated copy of his conviction and on proof of his identity." (Article 1.)

with Denmark in 1862, confirmed by 25 & 26 Vict. c. 70.

"In the case of a person accused or convicted of any of the crimes mentioned in the preceding article, who may have fled from a colony or possession of one of the high contracting parties and be found in a colony or possession of the other, the surrender shall be made, subject always to the conditions prescribed in the preceding article, on a requisition addressed by the governor of the one colony directly to the governor of the other. The governor upon whom the requisition is made shall be at liberty either to grant the surrender or to refer the matter to his government." (Article 2.)

"The expenses of any detention and surrender made in virtue of the preceding articles shall be borne and defrayed by the government in whose name the requisition shall have been made." (Article 3.)

"The present convention shall come into operation as soon as the necessary legislative acts shall have been passed. Either of the high contracting parties shall be at liberty to give notice to the other at any time for its termination; and in such case it shall altogether cease and determine at the expiration of six months from the date of such notice." (Article 4.)

33 & 34 Vict. c. 52.

to such treaties should have effect as part of this act. Provided that if any proceedings for or in relation to the surrender of a fugitive criminal have been commenced under the said acts previously to the repeal thereof, such proceedings may be completed, and the fugitive surrendered, in the same manner as if this act had not passed."

"Extradition crimes" to which the act applies.

The act also extends its operations to many other offences than those to which the former acts applied, which are termed "extradition crimes," and are set forth in the first schedule to the act. That schedule is as follows:—

"LIST OF CRIMES." (*See sect.* 19, *p.* 926, *and s.* 26, *p.* 920, *Note* 40).

"The following list of crimes 34 is to be construed according to the law existing in England, or in a British possession (as the case may be), at the date of the alleged crime, whether by common law or by statute made before or after the passing of this act:

"Murder, and attempt and *conspiracy to murder.

*"Manslaughter.

"Counterfeiting and altering money and uttering counterfeit or altered money.

"Forgery, counterfeiting and altering, and uttering what is forged or counterfeited or altered.

*"Embezzlement and larceny.

*"Obtaining money or goods by false pretences.

"Crimes by bankrupts against bankruptcy law. 35

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34 It will be seen by the *Note* 33, *ante*, p. 915, that only a few of these crimes were within the respective treaties with France, America, and Denmark; those with an asterisk * prefixed being entirely new as to all those states.

"Fraudulent bankruptcy" as interpreted in France.

35 The term here used as to bankruptcy offences is different from that used in the previous conventions with France and Denmark, where the term used is (as will be seen by *Note* 33, *ante*, p. 915), "fraudulent bankruptcy." That term, so far as regards France, did not include the offence of a bankrupt simply failing to surrender when required to do so, as appears by a communication made in November, 1867, through the Home Office, to the Lord Mayor of London, transmitting a copy of a note which had been addressed by Mons. de Moustier, Minister of Foreign Affairs, to her Majesty's ambassador at Paris (in a case where the extradition of a bankrupt had been demanded), pointing out the particulars which must be furnished when an application is made for the extradition of a fraudulent bankrupt. Mons. de Moustier says, "The insufficiency of the proofs furnished by the English magistrates has frequently in cases like the present, and particularly on the occasions of the extradition of S. G. & W., been the source of difficulties, the recurrence of which may easily be prevented. It is sufficient . . . . to dis-

33 & 34 Vict. c. 52.

"Extradition crimes" to which the act applies.

*" Fraud by a bailee, banker, agent, factor, trustee or " director, or member, or public officer of any company " made criminal by any act for the time being in force.

*" Rape.

*" Abduction.

*" Child stealing.

*" Burglary and housebreaking.

" Arson.

" Robbery with violence.

*" Threats by letter or otherwise with intent to extort.

" Piracy by law of nations.

" Sinking or destroying a vessel at sea, or attempting or " conspiring to do so.

" Assaults on board a ship on the high seas with intent to " destroy life or to do grievous bodily harm.

" Revolt or conspiracy to revolt by two or more persons on " board a ship on the high seas against the authority " of the master." (See "*Additional Offences*," p. 928, *post*.)

We propose now to give *in extenso* the provisions relating to the application of the 33 & 34 Vict. c. 52, to any foreign state, and the proceedings to be adopted in facilitating the apprehension and surrender of fugitive criminals,—

Where arrangement for surrender of criminals made, order in council to apply act.

Sect. 2.

Sect. 2. "Where an arrangement has been made with any foreign state with respect to the surrender to such state of any fugitive criminals, her Majesty may, by order in council, direct that this act shall apply in the case of such foreign state.

" Her Majesty may, by the same or any subsequent order, limit the operation of the order, and restrict the same to fugitive criminals[36] who are in or suspected of being in the part of her Majesty's

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tinctly specify in the judicial documents produced in support of the demand for extradition for fraudulent bankruptcy one of the indispensable acts which, according to our laws, affixes the character of crime to the bankruptcy. In fact, under the terms of article 591 of our commercial code, the bankrupt must have withheld the production of his books, or concealed or made away with a portion of his assets, or fraudulently acknowledged himself debtor for monies not due by him either in his books, by notarial acts, notes of hand, or by his balance-sheet." The Bankruptcy Act, 1869 (32 & 33 Vict. c. 71), does not itself contain any offence punishable in England in relation to bankruptcy; but the Debtors Act, 1869, 32 & 33 Vict. c. 62 (which, by sect. 3, came into operation on the same day as the Bankruptcy Act, and the words and expressions defined or explained in it are to have the same meaning as in the Debtors Act) contains offences by bankrupt. These offences are given in tit. "*Bankrupts*," Chap. II. of this Part, *post*.

Definitions of "fugitive

[36] By sect. 26, the term "fugitive criminal" means any person accused

33 & 34 Vict. c. 52.

dominions specified in the order, and render the operation thereof subject to such conditions, exceptions and qualifications as may be deemed expedient. Every such order shall recite or embody the terms of the arrangement, and shall not remain in force for any longer period than the arrangement. Every such order shall be laid before both houses of parliament within six weeks after it is made, or, if parliament be not then sitting, within six weeks after the then next meeting of parliament, and shall also be published in the London Gazette."

Restrictions on surrender of criminals.

Offence of a political character.

Sect. 3.

Sect. 3. "The following restrictions shall be observed with respect to the surrender of fugitive criminals:

(1.) A fugitive criminal shall not be surrendered if the offence in respect of which his surrender is demanded is one of a political character, or if he prove to the satisfaction of the police magistrate 37 or the court before whom he is brought on habeas corpus, or to the secretary of state, 38 that the requisition for his surrender has in fact been made with a view to try or punish him for an offence of a political character:

(2.) A fugitive criminal shall not be surrendered to a foreign state unless provision is made by the law of that state, 39 or by arrangement, that the fugitive criminal shall not, until he has been restored or had an opportunity of returning to her Majesty's dominions, be detained or tried in that foreign state for any offence committed prior to his surrender other than the extradition crime 40 proved by the facts on which the surrender is grounded:

(3.) A fugitive criminal who has been accused of some offence within English jurisdiction not being the offence for which his surrender is asked, or is undergoing sentence under

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criminal," and "fugitive criminal of a foreign state."

or convicted of an extradition crime committed within the jurisdiction of any foreign state who is in or is suspected of being in some part of her Majesty's dominions;—and the term "fugitive criminal of a foreign state" means a fugitive criminal accused or convicted of an extradition crime committed within the jurisdiction of that state.

Definition of "police magistrate."

37 By sect. 26, the term "police magistrate" means a chief magistrate of the metropolitan police courts, or one of the other magistrates of the metropolitan police court in Bow Street: the special authority given to a police magistrate is in ss. 8, 9, 10, 11.

Definition of "secretary of state."

38 By sect. 26, the term "secretary of state" means one of her Majesty's principal secretaries of state.

Foreign state includes dependencies.

39 By sect. 25, "For the purposes of this act, every colony, dependency, and constituent part of a foreign state, and every vessel of that state, shall (except where expressly mentioned as distinct in this act) be deemed to be within the jurisdiction of and to be part of such foreign state."

Definition of "extradition crime."

40 By sect. 26, the term "extradition crime" means a crime which, if committed in England or within English jurisdiction, would be one of the crimes described in the first schedule to this act.

any conviction in the United Kingdom, shall not be surrendered until after he has been discharged, whether by acquittal or on expiration of his sentence or otherwise: 33 & 34 Vict. c. 52.

(4.) A fugitive criminal shall not be surrendered until the expiration of fifteen days from the date of his being committed to prison to await his surrender."

Provisions of arrangement for surrender. Sect. 4.

Sect. 4. "An order in council for applying this act in the case of any foreign state shall not be made unless the arrangement—

(1.) provides for the determination of it by either party to it after the expiration of a notice not exceeding one year; and,

(2.) is in conformity with the provisions of this act, and in particular with the restrictions on the surrender of fugitive criminals contained in this act."

Publication and effect of order. Sect. 5.

Sect. 5. "When an order applying this act in the case of any foreign state has been published in the London Gazette, this act (after the date specified in the order, or if no date is specified, after the date of the publication), shall, so long as the order remains in force, but subject to the limitations, restrictions, conditions, exceptions and qualifications, if any, contained in the order, apply in the case of such foreign state. An order in council shall be conclusive evidence that the arrangement therein referred to complies with the requisitions of this act, and that this act applies in the case of the foreign state mentioned in the order, and the validity of such order shall not be questioned in any legal proceedings whatever."

Liability of criminal to surrender. Sect. 6.

Sect. 6. Where this act applies in the case of any foreign state, every fugitive criminal of that state who is in or suspected of being in any part of her Majesty's dominions, or that part which is specified in the order applying this act (as the case may be), shall be liable to be apprehended and surrendered in manner provided by this act, whether the crime in respect of which the surrender is sought was committed before or after the date of the order, and whether there is or is not any concurrent jurisdiction in any court of her Majesty's dominions over that crime."

Order of secretary of state for issue of warrant in United Kingdom if crime is not of a political character. Sect. 7.

Sect. 7. "A requisition for the surrender of a fugitive criminal of any foreign state, who is in or suspected of being in the United Kingdom, shall be made to a secretary of state by some person recognized by the secretary of state as a diplomatic representative of that foreign state. A secretary of state may, by order under his hand and seal, signify to a *police magistrate* that such requisition has been made, and require him to issue his warrant for the apprehension of the fugitive criminal. [Form No. 1, p. 929.] If the secretary of state is of opinion that the offence is one of a political character, he may, if he think fit, refuse to send any such order, and may also at any time order a fugitive criminal accused or convicted of such offence to be discharged from custody."

Issue of warrant by police

Sect. 8. "A warrant for the apprehension of a fugitive criminal,

33 & 34 Vict. c. 52.

magistrate, justice, &c.

Sect. 8.

whether accused or convicted of crime, 41 who is in or suspected of being in the United Kingdom, may be issued—

(1.) By a *police magistrate* on the receipt of the said order of the secretary of state, and on such evidence as would in his opinion justify the issue of the warrant if the crime had been committed or the criminal convicted in England [Form No. 2, p. 929]; and

(2.) By a *police magistrate or any justice of the peace* 42 in any part of the United Kingdom, on such information or complaint and such evidence or after such proceedings as would in the opinion of the person issuing the warrant justify the issue of a warrant if the crime had been committed or the criminal convicted in that part of the United Kingdom in which he exercises jurisdiction. [Form No. 3, p. 930.]

Any person issuing a warrant under this section *without an order from a secretary of state* shall forthwith send a report of the fact of such issue, together with the evidence and information or complaint, *or* certified copies thereof, to a secretary of state, who may if he think fit order the warrant to be cancelled, and the person who has been apprehended on the warrant to be discharged. A fugitive criminal, when apprehended on a warrant issued without the order of a secretary of state, shall be brought before some person having power to issue a warrant under this section, who shall by warrant order him to be brought and the prisoner shall accordingly be brought before a *police magistrate*. [Form No. 4, p. 930.] A fugitive criminal apprehended on a warrant issued without the order of a secretary of state shall be discharged by the *police magistrate*, unless the *police magistrate*, within such reasonable time as, with reference to the circumstances of the case, he may fix, receives from a secretary of state an order signifying that a requisition has been made for the surrender of such criminal."

Hearing of case and evidence of political character of crime.

Sect. 9.

Sect. 9. "When a fugitive criminal is brought before the *police magistrate*, the *police magistrate* shall hear the case in the same manner, and have the same jurisdiction and powers, as near as may be, as if the prisoner were brought before him charged with an indictable offence committed in England. The *police magistrate* shall receive any evidence which may be tendered to show that the crime of which the prisoner is accused or alleged to have been convicted is an offence of a political character or is not an extradition crime."

Definition of "conviction" and "accused."

41 By sect. 26, the terms "conviction" and "convicted" do not include or refer to a conviction which under foreign law is a conviction for contumacy, but the term "accused person" includes a person so convicted for contumacy.

Definition of "justice of the peace."

42 By sect. 26, the term "justice of the peace" includes in Scotland any sheriff, sheriff's substitute, or magistrate.

33 & 34 Vict. c. 52.

Committal or discharge of prisoner.

Sect. 10.

Sect. 10. "In the case of a fugitive criminal accused of an extradition crime, if the foreign warrant[43] authorizing the arrest of such criminal is duly authenticated, and such evidence is produced as (subject to the provisions of this act) would, according to the law of England, justify the committal for trial of the prisoner, if the crime of which he is accused had been committed in England, the *police magistrate* shall commit him to prison, but otherwise shall order him to be discharged. In the case of a fugitive criminal alleged to have been convicted of an extradition crime, if such evidence is produced as (subject to the provisions of this act), would, according to the law of England, prove that the prisoner was convicted of such crime, the *police magistrate* shall commit him to prison, but otherwise shall order him to be discharged. [Form to be used in either case, No. 5, p. 930.] If he commits such criminal to prison, he shall commit him to the Middlesex House of Detention, or to some other prison in Middlesex, there to await the warrant of a secretary of state for his surrender, and shall forthwith send to a secretary of state a certificate of the committal, and such report upon the case as he may think fit."

Surrender of fugitive to foreign state by warrant of secretary of state.

Sect. 11.

Sect. 11. "If the *police magistrate* commits a fugitive criminal to prison, he shall inform such criminal that he will not be surrendered until after the expiration of fifteen days, and that he has a right to apply for a writ of habeas corpus. Upon the expiration of the said fifteen days, or, if a writ of habeas corpus is issued, after the decision of the court upon the return to the writ as the case may be, or after such further period as may be allowed in either case by a secretary of state, it shall be lawful for a secretary of state, by warrant under his hand and seal [Form No. 6, p. 931], to order the fugitive criminal (if not delivered on the decision of the court) to be surrendered to such person as may in his opinion be duly authorized to receive the fugitive criminal by the foreign state from which the requisition for the surrender proceeded, and such fugitive criminal shall be surrendered accordingly. It shall be lawful for any person to whom such warrant is directed and for the person so authorized as aforesaid to receive, hold in custody, and convey within the jurisdiction of such foreign state the criminal mentioned in the warrant;—and if the criminal escapes out of any custody to which he may be delivered on or in pursuance of such warrant, it shall be lawful to retake him in the same manner as any person accused of any crime against the laws of that part of her Majesty's dominions to which he escapes may be retaken upon an escape."

Definition of "warrant."

[43] By sect. 26, the term "warrant" in the case of any foreign state, includes any judicial document authorizing the arrest of a person accused or convicted of crime.

23 & 24 Vict. c. 52.

Discharge of persons apprehended if not conveyed out of United Kingdom within two months.

Sect. 12.

Sect. 12. "If the fugitive criminal who has been committed to prison is not surrendered and conveyed out of the United Kingdom within two months after such committal, or, if a writ of habeas corpus is issued, after the decision of the court upon the return to the writ, it shall be lawful for any judge of one of her Majesty's superior courts at Westminster, upon application made to him by or on behalf of the criminal, and upon proof that reasonable notice of the intention to make such application has been given to a secretary of state, to order the criminal to be discharged out of custody, unless sufficient cause is shown to the contrary."

Execution of warrant of police magistrate.

Sect. 13.

Sect. 13. "The warrant of the *police magistrate* issued in pursuance of this act may be executed in any part of the United Kingdom in the same manner as if the same had been originally issued or subsequently indorsed by a justice of the peace having jurisdiction in the place where the same is executed."

Depositions to be evidence.

Sect. 14.

Sect. 14. "Depositions or statements on oath, taken in a foreign state, and copies of such original depositions or statements, and foreign certificates of or judicial documents stating the fact of conviction may, if duly authenticated, be received in evidence in proceedings under this act."

Authentication of foreign depositions and warrants.

Sect. 15.

Sect. 15. "Foreign warrants and depositions or statements on oath, and copies thereof, and certificates of or judicial documents stating the fact of a conviction, shall be deemed duly authenticated for the purposes of this act if authenticated in manner provided for the time being by law or authenticated as follows:

(1.) If the warrant purports to be signed by a judge, magistrate, or officer of the foreign state where the same was issued;

(2.) If the depositions or statements or the copies thereof purport to be certified under the hand of a judge, magistrate, or officer of the foreign state where the same were taken to be the original depositions or statements, or to be true copies thereof, as the case may require; and

(3.) If the certificate of or judicial document stating the fact of conviction purports to be certified by a judge, magistrate, or officer of the foreign state where the conviction took place; and

if in every case the warrants, depositions, statements, copies, certificates, and judicial documents (as the case may be) are authenticated by the oath of some witness or by being sealed with the official seal of the minister of justice, or some other minister of state: And all courts of justice, justices, and magistrates shall take judicial notice of such official seal, and shall admit the documents so authenticated by it to be received in evidence without further proof."

Jurisdiction as to crimes

Sect. 16. "Where the crime in respect of which the surrender of a fugitive criminal is sought was committed on board any vessel

on the high seas which comes into any port of the United Kingdom, the following provisions shall have effect:

33 & 34 Vict. c. 52.

committed at sea.

Sect. 16.

(1.) This act shall be construed as if any *stipendiary magistrate* in England or Ireland, and any sheriff or sheriff substitute in Scotland, were substituted for the police magistrate throughout this act, except the part relating to the execution of the warrant of the police magistrate [*i. e.* sect. 13, p. 923]:

(2.) The criminal may be committed to any prison to which the person committing him has power to commit persons accused of the like crime:

(3.) If the fugitive criminal is apprehended on a warrant issued without the order of a secretary of state, he shall be brought before the *stipendiary magistrate*, sheriff, or sheriff substitute who issued the warrant, or who has jurisdiction in the port where the vessel lies, or in the place nearest to that port."

Fugitive Criminals in British Possessions.

Proceedings as to fugitive criminals in British possessions.

Sect. 17.

Sect. 17. "This act, when applied by order in council, shall, unless it is otherwise provided by such order, extend to every British possession in the same manner as if throughout this act the British possession were substituted for the United Kingdom or England, as the case may require, but with the following modifications; namely,

(1.) The requisition for the surrender of a fugitive criminal who is in or suspected of being in a British possession may be made to the governor of that British possession by any person recognized by that governor as a consul general, consul, or vice-consul, or (if the fugitive criminal has escaped from a colony or dependency of the foreign state on behalf of which the requisition is made) as the governor of such colony or dependency:

(2.) No warrant of a secretary of state shall be required, and all powers vested in or acts authorized or required to be done under this act by the police magistrate and the secretary of state, or either of them, in relation to the surrender of a fugitive criminal, may be done by the governor of the British possession alone:

(3.) Any prison in the British possession may be substituted for a prison in Middlesex:

(4.) A judge of any court exercising in the British possession the like powers as the Court of Queen's Bench exercises in England may exercise the power of discharging a criminal

33 & 34 Vict. c. 52.

when not conveyed within two months out of such British possession."[44]

Saving of laws of British possessions.

Sect. 18.

Sect. 18. "If by any law or ordinance, made before or after the passing of this act by the legislature[45] of any British possession, provision is made for carrying into effect within such possession the surrender of fugitive criminals who are in or suspected of being in such British possession, her Majesty may, by the order in council applying this act in the case of any foreign state, or by any subsequent order, either

suspend the operation within any such British possession of this act, or of any part thereof, so far as it relates to such foreign state, and so long as such law or ordinance continues in force there, and no longer;

or direct that such law or ordinance, or any part thereof, shall have effect in such British possession, with or without modifications and alterations, as if it were part of this act."

General Provisions.

Criminal surrendered by foreign state not triable for previous crimes.

Sect. 19.

Sect. 19. "Where, in pursuance of any arrangement with a foreign state, any person accused or convicted of aay crime which, if committed in England, would be one of the crimes described in the first schedule to this act is surrendered by that foreign state, such person shall not, until he has been restored or had an opportunity of returning to such foreign state, be triable or tried for any offence committed prior to the surrender in any part of her Majesty's dominions other than such of the said crimes as may be proved by the facts on which the surrender is grounded."

As to use of forms in second schedule.

Sect. 20.

Sect. 20. "The forms set forth in the second schedule to this act, or forms as near thereto as circumstances admit, may be used in all matters to which such forms refer, and in the case of a British possession may be so used, mutatis mutandis, and when used shall be deemed to be valid and sufficient in law." [See these set out, *post*, pp. 929—931.]

Revocation, &c. of order in council.

Sect. 21.

Sect. 21. "Her Majesty may, by order in council, revoke or

Definition of "British possession" and "governor."

44 By sect. 26, the term "British possession" means any colony, plantation, island, territory, or settlement within her Majesty's dominions, and not within the United Kingdom, the Channel Islands, and Isle of Man; and all colonies, plantations, islands, territories, and settlements under one legislature, as hereinafter defined, are deemed to be one British possession. The term "governor" means any person or persons administering the government of a British possession, and includes the governor of any part of India.

Definition of "legislature."

45 By sect. 26, the term "legislature" means any person or persons who can exercise legislative authority in a British possession, and where there are local legislatures as well as a central legislature, means the central legislature only.

after, subject to the restrictions of this act, any order in council made in pursuance of this act, and all the provisions of this act with respect to the original order shall (so far as applicable) apply, mutatis mutandis, to any such new order." 33 & 34 Vict. c. 52. Sect. 21.

Sect. 22. "This act, except so far as relates to the execution of warrants in the Channel Islands) shall extend to the Channel Islands and Isle of Man in the same manner as if they were part of the United Kingdom;—and the royal courts of the Channel Islands are hereby respectively authorized and required to register this act." Application of act in Channel Islands and Isle of Man. Sect. 22.

Sect. 23. "Nothing in this act shall affect the lawful powers of her Majesty or of the Governor General of India in Council to make treaties for the extradition of criminals with Indian native states, or with other Asiatic states conterminous with British India, or to carry into execution the provisions of any such treaties made either before or after the passing of this act." Saving for Indian treaties. Sect. 23.

Sect. 24. "The testimony of any witness may be obtained in relation to any criminal matter pending in any court or tribunal in a foreign state in like manner as it may be obtained in relation to any civil matter under the act of the session of the nineteenth and twentieth years of the reign of her present Majesty, chapter one hundred and thirteen, intituled 'An Act to provide for taking evidence in her Majesty's dominions in relation to civil and commercial matters pending before foreign tribunals;' and all the provisions of that act shall be construed as if the term civil matter included a criminal matter, and the term cause included a proceeding against a criminal: provided that nothing in this section shall apply in the case of any criminal matter of a political character." 46 Power of foreign state to obtain evidence in United Kingdom. Sect. 24. [19 & 20 Vict. c. 113.]

The course of procedure for obtaining the extradition of offenders flying to a foreign state, is the same as that sketched out at p. 931 in cases where no treaty exists,—and see *Note* 47 thereto. Course of procedure for obtaining extradition of offenders.

By the Extradition Act, 1873 (36 & 37 Vict. c. 60), which is to be construed with the Extradition Act of 1870 (33 & 34 Vict. c. 52), several additional provisions are enacted. Thus by sect. 3 it is provided, that every person who is accused or convicted of having counselled, procured, commanded, aided, or abetted the commission of any extradition crime, or of

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46 The evidence is to be taken by her Majesty's superior courts of common law at Westminster, or in Dublin, the court of session in Scotland, and any superior court in any of her Majesty's colonies or possessions abroad, and any judge of any such court, and every judge in any such colony or possession appointed by order in council (19 & 20 Vict. c. 113, s. 6).

33 & 34 Vict. c. 52.

being accessory before or after the fact to any extradition crime, shall be deemed for the purpose of the principal act and this act to be accused or convicted of having committed such crime, and shall be liable to be apprehended and surrendered accordingly. The 4th section enacts, that the provisions of the principal act relating to depositions and statements on oath taken in a foreign state, and copies of such original depositions and statements, shall extend to affirmations taken in a foreign state and copies of such affirmations. The 5th section enacts, that a secretary of state may, by order under his hand and seal, require a police magistrate or justice of the peace to take evidence for the purpose of any criminal matter pending in any court or tribunal in any foreign state; and the police magistrate or justice of the peace, upon the receipt of such order, is to take the evidence of every witness appearing before him for the purpose in like manner as if such witness appeared on a charge against some defendant for an indictable offence; and he is to certify at the foot of the depositions so taken that such evidence was taken before him, and he is to transmit the same to the secretary of state; such evidence may be taken in the presence or absence of the person charged, if any, and the fact of such presence or absence is to be stated in such deposition. Witnesses may be compelled to attend on payment or tender of a reasonable sum for their costs and expenses.

The schedule to the act runs as follows:

"The following list of crimes is to be construed according to the law existing in England or in a British possession (as the case may be) at the date of the alleged crime, whether by common law or by statute made before or after the passing of this act:

"Kidnapping and false imprisonment.

"Perjury and subordination of perjury, whether under common or statute law.

"Any indictable offence under the Larceny Act, 1861, or any act amending or substituted for the same, which is not included in the first schedule of the principal act.

"Any indictable offence under the act of the session of the 24 & 25 Vict. c. 97, or any act amending or substituted for the same which is not included in the first schedule of the principal act.

"Any indictable offence under the act of the 24 & 25 Vict. c. 98, or any act amending or substituted for the same which is not included in the first schedule of the principal act.

"Any indictable offence under the 24 & 25 Vict. c. 99, or any act amending or substituted for the same which is not included in the first schedule to the principal act. 33 & 34 Vict. c. 52.

"Any indictable offence under the 24 & 25 Vict. c. 100, or any act amending or substituted for the same which is not included in the first schedule to the principal act.

"Any indictable offence under the laws for the time being in force in relation to bankruptcy which is not included in the first schedule to the principal act."

FORMS GIVEN IN SECOND SCHEDULE TO 33 & 34 VICT. C. 52.

[No. 1.] *Order of Secretary of State to the Police Magistrate.*

To the chief magistrate of the metropolitan police courts, *or* other magistrate of the metropolitan police court in Bow Street [*or* the stipendiary magistrate at].

Whereas, in pursuance of an arrangement with , referred to in an order of her Majesty in council dated the day of , a requisition has been made to me, , one of her Majesty's principal secretaries of state, by , the diplomatic representative of , for the surrender of , late of , accused [*or* convicted] of the commission of the crime of within the jurisdiction of : Now I hereby, by this my order under my hand and seal, signify to you that such requisition has been made, and require you to issue your warrant for the apprehension of such fugitive, provided that the conditions of "The Extradition Act, 1870," relating to the issue of such warrant, are in your judgment complied with. [Sect. 7.]

Given under the hand and seal of the undersigned, one of her Majesty's principal secretaries of state, this day of , 18 .

[No. 2.] *Warrant of Apprehension by Order of Secretary of State.*

Metropolitan police district or county or borough of to wit.] To all and each of the constables of the metropolitan police force [*or* of the county *or* borough of].

Whereas the Right Honourable , one of her Majesty's principal secretaries of state, by order under his hand and seal, hath signified to me that requisition hath been duly made to him for the surrender of , late of , accused [*or* convicted] of the commission of the crime of within the jurisdiction of : This is therefore to command you in her Majesty's name forthwith to apprehend the said pursuant to "The Extradition Act, 1870," wherever he may be found in the United Kingdom or Isle of Man, and bring him before me or some other [*magistrate sitting in this court], to show cause why he should not be surrendered in pursuance of the said Extradition Act, for which this shall be your warrant. [Sect. 8, sub-s. 1.]

Given under my hand and seal at [*Bow Street, one of the police courts of the metropolis] this day of 18 .

J. P.

**Note.*—Alter as required.

33 & 34 Vict. c. 52.

[No. 3.] *Warrant of Apprehension without Order of Secretary of State.*

Metropolitan police district [*or* county *or* borough of] to wit. } To all and each of the constables of the metropolitan police force [*or* of the county *or* borough of].

Whereas it has been shown to the undersigned, one of her Majesty's justices of the peace in and for the metropolitan police district [*or* the said county *or* borough of] that , late of , is accused [*or* convicted] of the commission of the crime of within the jurisdiction of : This is therefore to command you in her Majesty's name forthwith to apprehend the said , and to bring him before me or some other magistrate sitting at this court [*or* one of her Majesty's justices of the peace in and for the county [*or* borough] of] to be further dealt with according to law, for which this shall be your warrant.

[Sect. 8, sub-s. 2.]

Given under my hand and seal at Bow Street, one of the police courts of the metropolis [*or* in the county *or* borough aforesaid] this day of 18 .

J. P.

[No. 4.] *Warrant for bringing Prisoner before the Police Magistrate.*

County [*or* borough] of to wit. } To , constable of the police force of , and to all other peace officers in the said county [*or* borough] of .

Whereas , late of , accused [*or* alleged to be convicted] of the commission of the crime of within the jurisdiction of , has been apprehended and brought before the undersigned, one of her Majesty's justices of the peace in and for the said county [*or* borough] of : And whereas by "The Extradition Act, 1870," he is required to be brought before the chief magistrate of the metropolitan police court, or one of the police magistrates of the metropolis sitting at Bow Street, within the metropolitan police district [*or* the stipendiary magistrate for]: This is therefore to command you the said constable in her Majesty's name forthwith to take and convey the said to the metropolitan police district [*or* the said], and there carry him before the said chief magistrate or one of the police magistrates of the metropolis sitting at Bow Street within the said district [*or* before a stipendiary magistrate sitting in the said] to show cause why he should not be surrendered in pursuance of "The Extradition Act, 1870," and otherwise to be dealt with in accordance with law, for which this shall be your warrant.

[Sect. 8, conclusion.]

Given under my hand and seal at , in the county [*or* borough] aforesaid, this day of , 18 .

J. P.

[No. 5.] *Warrant of Committal.*

Metropolitan police district [*or* the county *or* borough of] to wit. } To , one of the constables of the metropolitan police force [*or* of the police force of the county *or* borough of], and to the keeper of the .

Be it remembered, that on this day of , in the year of our Lord late of is brought before me the chief magistrate of the metropolitan police courts [*or* one of the police magistrates of the metropolis] sitting at the police court in Bow

Street, within the metropolitan police district [*or* a stipendiary magistrate for], to show cause why he should not be surrendered in pursuance of "The Extradition Act, 1870," on the ground of his being accused [*or* convicted] of the commission of the crime of within the jurisdiction of , and forasmuch as no sufficient cause has been shown to me why he should not be surrendered in pursuance of the said act: 33 & 34 Vict. c. 52. [Sect. 10.]

This is therefore to command you the said constable in her Majesty's name forthwith to convey and deliver the body of the said into the custody of the said keeper of the at , and you the said keeper to receive the said into your custody, and him there safely to keep until he is thence delivered pursuant to the provisions of the said Extradition Act, for which this shall be your warrant.

Given under my hand and seal at Bow Street, one of the police courts of the metropolis [*or* at the said] this day of , 18 .

J.P.

[No, 6.] *Warrant of Secretary of State for Surrender of Fugitive.*

To the keeper of , and to .

Whereas , late of , accused [*or* convicted] of the commission of the crime of within the jurisdiction of , was delivered into the custody of you , the keeper of , by warrant dated , pursuant to "The Extradition Act, 1870:"

Now I do hereby, in pursuance of the said act, order you the said keeper to deliver the body of the said into the custody of the said , and I command you the said to receive the said into your custody, and to convey him within the jurisdiction of the said , and there place him in the custody of any person or persons appointed by the said to receive him, for which this shall be your warrant. [Sect. 11.]

Given under the hand and seal of the undersigned, one of her Majesty's principal secretaries of state, this day of .

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6. *Offences in or Offenders flying to other Foreign Countries.*

Offences committed in foreign countries.

With respect to offences committed in foreign countries, we have already stated at pp. 903—904, in what cases a justice may grant a warrant of apprehension or commit an accused person for trial, viz.:—

1. For offences by British subjects at sea, or on board a British ship at sea, or in any foreign port or harbour,—or by foreigners in a British ship at sea (see 11 & 12 Vict. c. 42, s. 2; 18 & 19 Vict. c. 91, s. 21), or in a foreign port or harbour,—or by British subjects on board a British ship, *or* a foreign ship to which he does not belong (30 & 31 Vict. c. 124, s. 11, *ante*, pp. 907, 908):
2. For murder or manslaughter, or accessory thereto, abroad, whether in her Majesty's dominions or not, by a British subject, on a foreigner or British subject (see 24 & 25 Vict. c. 100, s. 9, *ante*, p. 908):

3. For poisonings, hurts, &c. in England, resulting in death abroad, or *vice versâ* (see 24 & 25 Vict. c. 100, s. 10, *ante* p. 909):
4. In certain offences, such as libels, conspiracies, wholly or partially committed here with respect to foreign countries or powers (see *ante*, p. 910).
5. For offences here and offenders flying to any foreign country, whether we have a treaty with it or not (*ante*, p. 914).

Justices also have jurisdiction to hear charges for offences under the acts for the extradition of offenders flying from foreign countries with which we have treaties, as shown *ante*, p. 926, &c. In no other case arising in a foreign country can justices interfere either by granting a warrant to apprehend or committing an accused for trial. But with respect to those cases wherein the offender escapes to a foreign country, the warrant, although it may be issued, cannot be executed there. 47 The course to be pursued in obtaining the assistance of a foreign state for the extradition of a criminal flying from this country is this;—The warrant in the proper form is granted, after taking such evidence by deposition, as would warrant the committal of the accused for trial. A copy of the depositions, certified to be correct by the justice granting

Offenders flying to a foreign country.

Course of procedure in obtaining the assistance of a foreign state.

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47 Cases have, however, occurred for which warrants have been granted by the city and metropolitan police magistrates, and an officer of police sent (as in the case of *Reg.* v. *Sattler*, *ante*, p. 906) to places abroad with which we have no reciprocal convention or treaty, as, for instance, Hamburg, Antwerp, Austria, Russia, &c.; and the police authorities at those places have, as a matter of courtesy between friendly states, given the offenders over to the custody of our officers merely on the production of the warrant, or placed them on board a British vessel; or sometimes, instead of delivering them to the English officer, convicted them and punished them there by their laws (if a subject of theirs), receiving a certified copy of the depositions as evidence of the crime committed in this country. (See the very able pamphlet of Sir G. C. Lewis, on "Foreign Jurisdiction and the Extradition of Criminals," Parker, 1859.) By a circular letter from the Home Office to mayors and other justices, dated 13th July, 1861, it is stated that "whenever it is wished to procure the good offices of a diplomatic or consular agent abroad, for such purpose application must be made, in the first instance, to the Secretary of State for the Home Department, in order that he may communicate with the Foreign Office on the subject, if, in his judgment, the case is one which calls for the interference of the Government;" and further "that no *diplomatic or consular agent* will in future pay any attention to applications by police officers or other persons without express directions from the Foreign Secretary." Communications between the police of this and foreign countries are not, of course, prohibited, for without some such communication it can seldom be ascertained whether the persons accused are in a foreign country, to enable an application to be made for their extradition.

the warrant, is taken, with a duplicate of the warrant, by the officer who is charged with its execution, or the solicitor for the prosecution, to the home secretary of state, who communicates with the foreign office on the subject, if in his judgment the case is one which calls for the interference of the government. If the home secretary sanctions the application, the foreign secretary indorses the duplicate warrant or writes some communication to the English ambassador or minister, as the case may be, in the country where the warrant is intended to be executed, and which the secretary of state either sends himself or hands to the officer to take with the papers. As a matter of precaution it is usual to provide the officer with a duplicate warrant and certified copy of the depositions to accompany the original warrant, besides those furnished to the Home Office. Our ambassador or minister then in his turn, on the application of the officer also indorses the warrant or writes some communication to the superior police authority of the country, which communication the officer takes, and, in consequence, the authorities there either execute the warrant themselves and place the accused in the custody of the officer, or assist him in apprehending the accused.

7. *Offences in the Colonies and Offenders escaping to this Country, or* vice versâ.

Offences in the colonies, &c. 6 & 7 Vict. c. 34.

The act relating to offences in the colonies and offenders flying to this country, or *vice versâ*, is the 6 & 7 Vict. c. 34, "An Act for the better Apprehension of certain Offenders," [passed 28th July, 1843,] being amended as to the offences only by 16 & 17 Vict. c. 118 [*Note* 49, *infra*],—the 6 & 7 Vict. c. 34 reciting, that "it is expedient *to make more effectual* "*provision* for the apprehension and trial of offenders against "the laws who may be in other parts of her Majesty's do-"minions than those in which their offences were committed."[48] The offences to which it extends are *treason or any felony*. The 6 & 7 Vict. c. 34, contains the following provisions:—

Offenders in the colonies escaping into

Sect. 1. That if any person charged with having committed any offence such as is hereinafter mentioned, [49] against the laws of any

[48] It will appear from what is stated at p. 913, that any offender flying from the colonies to this country may, by virtue of the common law, be apprehended here *without warrant*, this act being supplemental to and designed to aid such law. The crime, however, may be investigated here, but must be tried in the colonies.

[49] Section 10 of the 6 & 7 Vict. c. 34, enacts, "That it shall not be 6 & 7 Vict. c. 34, s. 10.

6 & 7 Vict. c. 34.

the United Kingdom may be there apprehended.

Sect. 1.

part of her Majesty's dominions not being part of the United Kingdom of Great Britain and Ireland, and against whom a warrant shall have been issued for such offence by any person having lawful authority to issue the same within that part of her Majesty's dominions where such offence shall have been committed, shall be in any place within the said United Kingdom, it shall be lawful, in Great Britain, for one of her Majesty's principal secretaries of state to endorse his name on such warrant, which warrant so endorsed shall be a sufficient authority to the person or persons bringing such warrant, &c., to execute the same, by apprehending the person against whom it is directed, and to convey him before a justice of the peace for the county or other jurisdiction in which he is apprehended. (Form of indorsement, No. 33, p. 484, Oke's "*Formulist*," 6th ed.)

Apprehension of offenders escaping to the Colonies.

Sect. 2.

By sect. 2, "to remedy the like failure of justice by the escape of persons charged with having committed offences in those parts of her Majesty's dominions which do not form part of the United Kingdom," it is enacted,—that, if any person charged with having committed any offence such as is hereinafter mentioned 49 in any part of her Majesty's dominions, whether or not within the said United Kingdom, and against whom a warrant is issued by any person or persons having lawful authority to issue the same, shall be in any other part of her Majesty's dominions not forming part of the said United Kingdom, the chief justice or any other judge of her Majesty's superior court of law within that other part of her Majesty's dominions where such person shall be may indorse his name on such warrant,—which warrant so indorsed shall be a sufficient authority to the person or persons bringing such warrant, &c., to execute the same within the jurisdiction of the person by whom it shall be so indorsed, by apprehending the person against whom such warrant is directed, and to convey him before a magistrate or other person having authority to examine and commit offenders for trial in that part of her Majesty's dominions. [*Vide* sect. 4, *infra*, as to depositions being evidence.]

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lawful for any person to endorse his name upon any such warrant, for the purpose of authorizing the apprehension of any person under this act, unless it shall appear upon the face of the said warrant that the offence which the person for whose apprehension the said warrant has been issued is charged to have committed is such that, if committed within that part of her Majesty's dominions where the warrant is so endorsed, it would have amounted in law to a treason *or some felony such as the justices of the peace in general or quarter sessions assembled have not authority to try in England under the provisions of the act* 5 & 6 *Vict. c.* 38 [*post*, Sect. VI. of this Chap.],—or unless the depositions appear sufficient to warrant the committal of such person for trial." By 16 & 17 Vict. c. 118, the provisions of this section in *italics* is repealed as to the limitation of the offences, and extended to persons charged with *any* felony.

16 & 17 Vict. c. 118.

By sect. 3, Any person duly authorized to examine and commit offenders for trial, before whom any such supposed offender is brought, *upon such evidence of criminality as would justify his committal if the offence had been committed in that part of her Majesty's dominions*, may commit such supposed offender to prison, there to remain until he can be sent back to that part of her Majesty's dominions in which he is charged with having committed such offence;—and immediately upon the committal of such person, information thereof in writing under the hand of the committing magistrate, accompanied by a copy of the said warrant, is to be given, in Great Britain, to one of her Majesty's principal secretaries of state. 50 (*Vide* Forms of Caption of Depositions of New Evidence, Committal of Accused to Prison, and Letter to the Home Secretary of State, &c., Oke's "*Formulist*," 6th ed. pp. 484, 485, Nos. 34—39.)

6 & 7 Vict. c. 34.

Offender to be sent to gaol until sent back to where offence committed.

Sect. 3.

By sect. 4, Copies of the depositions upon which the original warrant was granted, certified under the hand of the person issuing it, and attested upon the oath of the party producing them to be true copies of the original depositions, may be received in evidence of the criminality of the person so apprehended. (*Vide* Form of Certificate, Oke's "*Formulist*," 6th ed. p. 484, No. 32.)

Copies of depositions to be evidence.

Sect. 4.

By sect. 5, In Great Britain, one of her Majesty's principal secretaries of state by warrant under his hand and seal [*Vide* Form, No. 40, p. 487, Oke's "*Formulist*," 6th ed.] may order any person so apprehended and committed to gaol to be delivered into the custody of some person, to be named in the said warrant, for the purpose of being conveyed into that part of her Majesty's dominions in which he is charged with having committed the offence, and being delivered into the custody of the proper authorities there, to be dealt with in due course of law as if he had been there apprehended [*then follows a power to retake if he escapes*].

Offenders apprehended to be sent to the place where the offence was committed.

Sect. 5.

By sect. 6, Where any person committed to gaol under this act is not conveyed out of that part of her Majesty's dominions within two calendar months after such committal, over and above the time actually required to convey the prisoner from the gaol to which he was committed by the readiest way out of that part of her Majesty's dominions, any of her Majesty's judges in that part of her Majesty's dominions in which such supposed offender is in custody, upon application made to him or them by or on behalf of the person so committed, and upon proof made to him or them that reasonable notice of the intention to make such application has been given to one of her Majesty's principal secretaries of state in Great Britain,

If not sent within two months after committal, may apply to be discharged.

Sect. 6.

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50 It is usual to send any additional depositions taken, and the original depositions and warrant and authentication thereof, to the Home Secretary, with this copy of the commitment.

6 & 7 Vict. c. 34.

may order the person so committed to be discharged out of custody, unless sufficient cause shall be shown to such judge or judges why such discharge ought not to be ordered.

Sect. 7.

By sect. 7, Persons apprehended if not indicted within six months, or if not convicted, may be sent back.

Sect. 8.

Sect. 8 provides for the expense of removal of offenders to the United Kingdom being paid by the treasurer of the county where offence committed by the order of the court trying the offender.

Sect. 9.

By sect. 9, Proof of the signature of the person issuing the original warrant is to be given before endorsing such warrant.

Course of procedure.

The course usually pursued in order to obtain the assistance of the authorities in the colonies where the accused is supposed to be, is similar to that adopted as respects offenders escaping to foreign states, except that the home secretary communicates with the colonial secretary instead of the foreign secretary.

SECT. III. REMANDING OR BAILING ACCUSED BEFORE OR DURING EXAMINATION.

11 & 12 Vict. c. 42.

Sect. 21.

To defer examination,

11 & 12 Vict. c. 42, s. 21, enacts,—"that, if from the absence of witnesses, or from any other reasonable cause, 1 it shall become necessary or advisable to defer the examination or further examination of the witnesses for any time, it shall be lawful to and for the justice or justices before whom the accused shall appear or be brought, 2 by his or

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1 *Remanding Prisoners charged with certain Crimes for Inquiry into Character.*] The Home Secretary issued a general circular to the magistrates in petty sessions, after the passing of "The Habitual Criminals Act, 1869," 32 & 33 Vict. c. 99 (which is repealed, and "The Prevention of Crimes Act, 1871," 34 & 35 Vict. c. 112, substituted for it), in which it was stated that the operation of the act "would be facilitated by a more frequent resort on the part of magistrates to the practice of remanding, for further inquiry, persons in custody on charges of felony, and of the other offences enumerated" in that act [see now 34 & 35 Vict. c. 112, s. 20, set out at p. 951, *note* * of Sect. V., "The Preliminary Examination," &c.], and the circular recommended that "in any case where there is reason to believe that a person brought before them so charged is leading a life of habitual crime, or that the ends of justice might be promoted by a more accurate knowledge of his previous history, a remand should take place for the purpose of affording time to procure further information."

2 The accused need not have been apprehended under process to warrant a remand, and slight evidence against him upon the charge is sufficient for that purpose; for it is generally impossible, except in the most simple case, to have ready all the evidence, or to present a *primâ facie* case sufficient to justify a committal, on the first hearing. In important cases these preliminary investigations are necessarily prolonged

"their warrant (Q 1), from time to time to remand the party "accused for such time as by such justice or justices in their "discretion shall be deemed reasonable, not exceeding *eight* "*clear days*, to the common gaol or house of correction, or "other prison, lock-up house, 3 or place of security in the "county, riding, division, liberty, city, borough or place for "which such justice or justices shall then be acting;—or if "the remand be for a time not exceeding *three clear days* "it shall be lawful for such justice or justices verbally to "order the constable or other person in whose custody such "party accused may then be, or any other constable or person "to be named by the said justice or justices in that behalf, to "continue or keep such party accused in his custody, and to "bring him before the same or such other justice or justices "as shall be there acting at the time appointed for continuing "such examination:—provided always, that any such justice "or justices may order 4 such accused party to be brought "before him or them, or before any other justice or justices "of the peace for the same county, &c., at any time before the "expiration of the time for which such accused party shall "be so remanded, and the gaoler or officer in whose custody "he shall then be shall duly obey such order:—provided also, "that, instead of detaining the accused party in custody during "the period for which he shall be so remanded, any one jus-"tice of the peace before whom such accused party shall so "appear or be brought as aforesaid *may* 5 discharge him upon

11 & 12 Vict. c. 42.

and remand accused for not exceeding eight clear days.

Justices may have accused before expiration of remand,

or bail him instead of detaining him in custody;

during several weeks, and often take up tenfold the time occupied in trying them when so completed for trial; but the advantages both to the accused and prosecutor are manifest in having all the evidence against him reduced into writing, with that of the accused's witnesses, under the Recorder's Act, 30 & 31 Vict. c. 35, s. 3. Justices will, of course, make these remands as short as consistent with the nature of the case and the difficulty of bringing the evidence forward.

3 See 31 Vict. c. 22, as to lock-up houses, &c., Vol. I. p. 64.

4 *Vide* Form of Order, Oke's "*Formulist*," 6th ed. p. 487, No. 40.

5 By the terms of this enactment it is in the justice's absolute discretion in *every case* whether he will allow the accused to go on bail during an adjournment of the hearing. It is otherwise when the justice has completed the examination and committed for trial, for then (as will be seen by s. 23, *post*), the accused is in certain cases of misdemeanor entitled to be admitted to bail, but in felonies and certain other misdemeanors he is not so entitled. While an inquiry is pending before a justice, or an accused is in gaol under remand, a judge of a superior court cannot interfere with that discretion by ordering the accused to be admitted to bail, like he may do after committal in any case. As a general rule it may be said, that in practice it is not usual on a remand (especially

11 & 12 Vict. c. 42.

"his entering into a recognizance (Q 2, 3), with or without a "surety or sureties, at the discretion of such justice, condi-"tioned for his appearance at the time and place appointed "for the continuance of such examination;[6]—and if such "accused party shall not afterwards appear at the time and "place mentioned in such recognizance, then the said justice, "or any other justice of the peace who may then and there "be present, upon certifying (Q 4) on the back of the recog-"nizance the nonappearance of such accused party, may trans-"mit such recognizance to the clerk of the peace of the county, "&c., within which such recognizance shall have been taken, "to be proceeded upon in like manner as other recognizances "—and such certificate shall be deemed sufficient *primâ facie* "evidence of such nonappearance of the said accused party."[7]

on non-appearance recognizance forfeited.

Recognizances to be estreated.

Remand or bail in other cases.

It will be seen by the proviso to sect. 9, *ante*, p. 895, that if any variance between the summons or warrant and the evidence adduced shall appear to the justices to have deceived or misled the accused, the justices may, at his request, adjourn the hearing, and remand the accused, or admit him to bail.

Witnesses bound over to appear.

It is the practice in some districts to bind over by recognizance the witnesses in attendance on the first examination to appear on the remand day; but, as there is no authority to do so, their recognizances could not be estreated should they not appear, and they should be summoned.

Accused not entitled to copies of depositions on remand or dismissal.

The accused not being entitled to a copy of the depositions until the case is completed (see 11 & 12 Vict. c. 42, s. 27, *post*, p. 967), he cannot demand a copy upon a remand for re-

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where the precise nature or extent of the charge is undeveloped) for magistrates to admit to bail in those cases in which an accused is not entitled to be bailed after committal (unless the amount of property involved is very small): in other cases it is.

6 It is the practice where the accused is bailed, to extend, when desired, the further examination beyond the eight days mentioned in the first part of this section. Where many adjournments become necessary, the sureties must attend on each occasion personally with, of course, the accused, and the recognizance be entered into like on the first occasion, as it cannot be taken for the appearance of the accused "from time to time" so long as the case is before the justices. The recognizance is usually put in the form stated in *Note* 4, Vol. I. p. 159. The caution to be given by the justice to the accused, as required by sect. 18, *post*, p. 957, must not be given at the time of the remand, but "*after* the examination of *all* the witnesses on the part of the prosecution" is completed.

7 The justices before whom the accused should have appeared may also issue their warrant for his appearance, as if no previous hearing of the case had taken place (*ante*, pp. 896, 897). As to estreating the recognizance, see *Note* 10, Vol. I. p. 161.

examination;[8] nor is he entitled to them where the charge is dismissed.[9] 11 & 12 Vict. c. 42.

FORMS.

[*Vide* Q 1, 2, 3, 4, Nos. 39, 41—44, Oke's "*Formulist*," 6th ed. pp. 470—472.]

SECT. IV. COMPELLING WITNESSES' ATTENDANCE, &c.

By 11 & 12 Vict. c. 42, s. 16, it is enacted,—"that if it shall "be made to appear to any justice of the peace, by the oath "or affirmation of any credible person, that any person *within* "*the jurisdiction* 1 of such justice is likely to give material "evidence *for the prosecution*, 2 and will not voluntarily ap- "pear for the purpose of being examined as a witness at the "time and place appointed for the examination of the wit- "nesses against the accused, such justice may and is hereby "required to issue his summons (L. 1) to such person, under "his hand and seal, requiring him to be and appear at a time "and place mentioned in such summons before the said "justice, or before such other justice or justices of the peace "for the same county, riding, division, liberty, city, borough "or place as shall then be there, to testify what he shall "know concerning the charge made against such accused "party;—and if any person so summoned shall neglect or "refuse to appear at the time and place appointed by the "said summons, and no just excuse shall be offered for such "neglect or refusal, then after proof upon oath or affirmation "of such summons having been served upon such person, "either personally or by leaving the same for him with some

Summons to a witness. Sect. 16.

How summons served.

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8 *Reg.* v. *Lord Mayor of London*, 5 Q. B. 555; *Ex parte Fletcher*, 13 L. J. (N. S.) M. C. 67.

9 *Ex parte Humphreys*, 19 L. J. (N. S.) M. C. 189; 15 Law T. 142.

1 The observations on 11 & 12 Vict. c. 43, s. 7, *Note* 1, Vol. I. p. 165, will apply here also, but justices have jurisdiction in these criminal matters under a greater variety of circumstances than in summary convictions (*vide* Vol. I. pp. 12—25, paragraphs Nos. 10—26); and therefore in these cases it is submitted the jurisdiction to summon is not confined to the place where the offence was actually committed.

2 In practice summonses to witnesses for the accused have also been issued; and this is now expressly provided for by 30 & 31 Vict. c. 35, s. 4, which applies these provisions of 11 & 12 Vict. c. 42, "relating to the summoning and enforcing the attendance and committal of witnesses," to witnesses called by an accused on the preliminary examination.

11 & 12 Vict. c. 42.

Sect. 16.

Warrant on disobedience of summons;

"person at his last or most usual place of abode, 3 it shall be "lawful for the justice or justices before whom such person "shall have appeared to issue a warrant (L 2), under his or "their hands and seals, to bring and have such person at a "time and place to be therein mentioned before the justice "who issued the said summons, or before such other justice "or justices of the peace for the same county, &c. as shall "then be there to testify as aforesaid, and which said warrant "may, if necessary, be backed as hereinbefore is mentioned "(sect. 11, *ante*, p. 897), in order to its being executed out of "the jurisdiction of the justice who shall have issued the

or warrant in the first instance.

"same;—or if such justice shall be satisfied by evidence upon "oath or affirmation that it is probable that such person will "not attend to give evidence without being compelled so to

Witnesses refusing to be examined, &c. may be committed.

"do, then, instead of issuing such summons, it shall be lawful "for him to issueh is warrant (L. 3) in the first instance, and "which, if necessary, may be backed as aforesaid;—and if "on the appearance of such person so summoned before the "said last-mentioned justice or justices,—either in obedience "to the said summons or upon being brought before him or "them by virtue of the said warrant,—such person shall "refuse to be examined upon oath or affirmation concerning "the premises,—or shall refuse to take such oath or affirma-"tion,—or, having taken such oath or affirmation, shall refuse "to answer such questions concerning the premises as shall "then be put to him, without offering any just excuse for "such refusal,—any justice of the peace then present, and "having there jurisdiction, may by warrant (L 4), under his "hand and seal, commit the person so refusing to the com-"mon gaol or house of correction for the county, &c., where "such person so refusing shall then be, there to remain and "be imprisoned for any time not exceeding seven days, unless "he shall in the meantime consent to be examined and to "answer concerning the premises." 4

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3 A witness cannot refuse to attend, upon being served with a summons or subpœna, until his expenses are paid (*R.* v. *James*, 1 C. & P. 322); for a tender of his expenses is not necessary in indictable cases, as in summary convictions, Vol. I. p. 162.

4 Apparently a witness cannot be committed under this section unless he appears on a summons or a warrant; but it is submitted that, independently of this enactment, justices possess full power to commit a refractory witness who refuses to answer a material question put to him on the preliminary examination of an accused charged with any indictable offence. That appears to have been the view taken by various text writers prior to

See also 16 & 17 Vict. c. 30, s. 9, in Vol. I., p. 164, as to procuring a prisoner or person in gaol to be brought before justices to give evidence. 5

11 & 12 Vict. c. 42.

A person attending before a magistrate as a witness on a charge of felony, after a remand, is privileged from arrest on civil process *eundo morando et redeundo*, though he was not under recognizance or summons to appear. 6

Witness privileged from arrest.

FORMS.

[*Vide* L 1—4, Nos. 44—50, Oke's "*Formulist*," 6th ed. pp. 488—490.]

SECT. V. THE PRELIMINARY EXAMINATION AND COMMITTAL OF ACCUSED.

1. *The Court.*
2. *Taking the Depositions in Ordinary Cases.*
3. *Adjourned Examination.*
4. *Defence of Accused, and examining his Witnesses.*
5. *Examination for an Offence in another Jurisdiction.*
6. *Committal or Discharge of Accused.*
7. *Ordering Prosecution in certain Cases.*
8. *Returning Depositions, furnishing Copies, and Restoration of Prisoner's Property.*
9. *Removal of Prisoners for Trial at the Central Criminal Court.*
10. *Taking Depositions of Persons dangerously ill after Committal or Bailing Accused, or where no Accused.*

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the 11 & 12 Vict. c. 42, and which has not been altered by that act. Two cases are referred to,—*Cropper* v. *Horton*, 4 D. & R., M. C. 42; 8 D. & R. 166, and *In re Hadland*, 1 Dowl., N. S. 835 (referred to in 2 Burn's Justice, 29th ed. pp. 465, 466), in which it seems to have been admitted, although the proceeding failed on a point of form, that such a power existed if the question put is one upon which the witness is lawfully compelled to answer. Further, in *Reg.* v. *Sadler*, 4 C. & P. 218, it was held that a person who is present in court when called as a witness is bound to be sworn and to give his evidence in a criminal case, although he has not been subpoenaed. As to privileged communications, it is laid down that the privilege not to disclose facts is strictly confined to communications made to counsel, solicitors and attorneys (see 3 Russ. on Cr., 4th ed. p. 503). *Vide* Form of Commitment of such a witness, Oke's "*Formulist*," 6th ed. p. 490, No. 49.

5 It is the practice of the superior courts to require that the affidavit used on the application for the *habeas* referred to should state, if the fact be so, that the party whose evidence is desired is willing to be removed from his present custody to give evidence.

6 *Montague* v. *Harrison*, 27 L. J. (N. S.) C. P. 24; 30 Law T. 155.

1. *The Court.*

One justice in all cases.

In all cases one justice acting alone may hear the charge and commit the accused for trial or hold him to bail. See *post*, p. 964, as to course to be taken when more than one justice hears a charge.

Non-appearance of accused.

If the accused does not appear on the day appointed by the summons (if he has been summoned and not apprehended upon or without warrant) the justice may issue a warrant for his apprehension. See 11 & 12 Vict. c. 42, s. 9, *ante*, p. 894.

11 & 12 Vict. c. 42.

Places where examinations taken not an open court.

Sect. 19.

By 11 & 12 Vict. c. 42, s. 19, it is enacted,—"That the "room or building in which such justice or justices shall take "such examinations and statements as aforesaid 1 shall not "be deemed an open court for that purpose;—and it shall be "lawful for such justice or justices in his or their discretion, "to order that *no person* shall have access to or be or remain "in such room or building, without the consent or permission "of such justice or justices, if it appear to him or them that "the ends of justice will be best answered by so doing." 2

Withdrawal of a charge when before justices.

Although, as will be seen in Vol. I. p. 175, parties cannot compromise without the justices' consent, justices have no power to compel the person making a charge to proceed with the prosecution; yet, "if a *primâ facie* case is made out "against the prisoner by witnesses entitled to a reasonable "degree of credit" (*per* Bayley, J., in *Cox* v. *Coleridge*, 1 B. & C. 50), they have no discretion whether or not they will commit the accused for trial.3 If the prosecutor do not offer any evidence, it is the practice of the highest criminal courts,

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1 Meaning the examination of the witnesses in sect. 17 (*post*, pp. 945, 946), and the statement of the accused in sect. 18 (*post*, p. 951).

2 Under this provision, the professional advisers of the prosecutor and accused may be excluded; but s. 17, *post*, pp. 945, 946, speaks of the accused's counsel or attorney cross-examining the witnesses. It would seem, however, that the omission of the legislature to make an exception in favour of the legal advisers of the accused was accidental, for in the corresponding act for Ireland, passed in the following year (12 & 13 Vict. c. 68, for which the 14 & 15 Vict. c. 93, s. 9, art. 2, is now substituted) a similar clause to the above expressly reserves the right of the counsel or attorney of the accused to be present.

3 See cases in *Notes* 19 and 20, Vol. I. p. 175, and *Rowlands* v. *Symonds*, 14 J. P. 290, and a charge of Mr. Baron *Parke* in 1852, 16 J. P. 241, 242. The Act abolishing Forfeiture for Treason and Felony, 33 & 34 Vict. c. 23, s. 4, (set out in "Preliminary Observations" to Chap. II. of this Part), apparently admits of compromises; but see *Reg.* v. *Lovett*, 23 Law T., N. S. 95, there noticed. "The Debtors Act, 1869," 32 & 33 Vict. c. 62, s. 11, sub-ss. 13, 14, 15, admits also the payment of a debt after criminal proceedings are taken, as an answer to the charges.

on some explanation being given for that course, to discharge the accused; and it is likewise the practice of justices, under special circumstances, to permit the *withdrawal* of certain charges of misdemeanor, and even of felony, after some evidence has been given. But they should not be parties to any compromise of the case.

Upon this subject attention must be drawn to the 3rd rule of the Rules as to prosecutions under the 42 & 43 Vict. c. 22, s. 8 ("The Prosecution of Offences Act, 1879"), which directs that— 42 & 43 Vict. c. 49, r. 3.

"Upon every application made by a prosecutor to withdraw "from a prosecution, the clerk to the justices or to the police "court before whom the prosecution has been, in which such "application is made, shall forthwith give notice to the "Director of Public Prosecutions of such application, and of "the reasons for making it."

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2. *Taking the Depositions in Ordinary Cases.*

The prosecutor and his witnesses with the accused party being before the justice or justices, the fairest and usual course of proceeding (if the accused has not been charged at a police station and the charge written down or he has no counsel or attorney) is, to state the charge to him from the information, summons or warrant, and then to tell him that, after each witness has been examined, he may ask him any question he thinks fit; but that he should not interrupt him while giving his evidence, and that after all the witnesses have been examined, he will be called upon to make any statement he likes. The examination of the witnesses should then be proceeded with in his presence, 4 whose statements should be taken down in the first person, and as nearly as possible in their natural language, 5 omitting all matters which are irrevelant, and not strictly evidence. It must also be observed, with respect to any information or complaint, or the summons or warrant taken or issued, that no objections can be made to them from any defect therein, or for any

No objections to information, summons or warrant.

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4 No formal information need be taken, or, if previously taken, again sworn to, when the defendant is before the justices, as is the practice at some benches of magistrates. See 3 Russell on Cr., 4th ed. p. 442.

5 *Cohen* v. *Morgan*, 6 D. & R. 8; *Carratt* v. *Morley*, 1 Ad. & E. (N. S.) 18.

variance between them and the evidence adduced on the part of the prosecution; but if any variance has misled the accused, the hearing may be adjourned (see 11 & 12 Vict. c. 42, s. 8, *ante*, p. 881, and sect. 9, *ante*, p. 895).

Cases where indictment found.

It will be seen by 11 & 12 Vict. c. 42, s. 3, *ante*, p. 911, that where the person charged is apprehended after indictment found, and brought before a justice, no examination of the witnesses is required (that having been done before the grand jury), but merely a deposition of his identity. If the accused be in custody, a detainer is lodged at the gaol.

Admissions by accused.

Admissions of facts cannot be made for an accused by his counsel or solicitor; but if it is desirable to admit formal or other matters with a view to shorten the inquiry or save expenses, the accused may admit the fact during any stage of the examination, and such admission should be placed on the face of the depositions in the same way as voluntary observations during the examination may be made and taken down as stated at p. 953.

Order of procedure on the preliminary inquiry.

The order of the various steps in the procedure on the preliminary inquiry may be here briefly stated to be:—

1. Prosecutor's counsel or solicitor to open case:
2. Depositions of prosecutor's witnesses taken:
3. Accused invited, at the close of each witness's examination, to put questions to the witness, such cross-examination being distinguished in the deposition from the examination in chief:
4. When case for prosecution completed, depositions read over to and signed by the witnesses:
5. In long cases, or where there have been several examinations, it is convenient to hear the prosecutor's counsel or attorney at this stage sum up the evidence and give his reasons for the committal of the accused on the charges alleged: [6]
6. If evidence insufficient, and not calling for an answer, accused discharged (see sect. 25, *post*, p. 956).
7. If evidence sufficient for an answer, solicitor of accused to address the bench if case for prosecution completed; or if not completed and remand intended, to state his objections to a remand:
8. If evidence incomplete, accused remanded or bailed till a future day (*ante*, p. 936):

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6 There is no right of reply to the prosecution (unless the bench allow it) after the accused has made his statement and called his witnesses, if any. The 28 Vict. c. 18, s. 2, does not apply to a preliminary examination before magistrates.

Order of procedure on the preliminary inquiry.

9. If evidence sufficient and case completed, depositions read as No. 4, and magistrate's clerk to inform the accused of the precise legal charge against him: 7
10. Justice to caution accused as required by sect. 18 (p. 957), and 30 & 31 Vict. c. 35, s. 3 (p. 959):
11. Accused's statement to be taken down and read over to him:
12. Accused's witnesses (if any) heard, and their depositions taken (see pp. 958, 959):
13. If accused calls witnesses, prosecutor's solicitor to cross-examine them:
14. If case not sufficient to put accused on his trial, accused to be discharged; if otherwise, committed or held to bail for trial (sect. 25, *post*, p. 956):
15. Bailing or consenting to bail accused (see pp. 975—980):
16. Binding over prosecutor and his witnesses to prosecute and give evidence (see p. 971), and also accused's witnesses (p. 971):
17. Granting certificate of expenses of prosecutor and his and accused's witnesses (p. 981).

Mode of examination in all cases of indictable offences.

11 & 12 Vict. c. 42.

Sect. 17.

The 11 & 12 Vict. c. 42, s. 17, describes the course of proceeding: it enacts,—"that in all cases where any person shall "appear or be brought before any justice or justices of the "peace charged with an indictable offence,—whether com-"mitted in England or Wales or upon the high seas, or on "land beyond the sea, or whether such person appear volun-"tarily upon summons, or have been apprehended *with or* "*without warrant*, or be in custody for the same or any other "offence,—such justice or justices, *before he or they shall com-*"*mit* such accused person to prison for trial,—or *before he or* "*they shall admit him to bail*, 8—shall, in the presence of "such accused person,—who shall be at liberty to put questions "to any witness produced against him,—take the statement "(M), on oath or affirmation, *of those who shall know the facts* "*and circumstances of the case*,—and shall put the same into

7 *Vide* Oke's "*Formulist*," 6th ed. pp. 514—612, for a description of all indictable offences.

8 Therefore the depositions need not be completed as required by this section when it is intended to discharge the accused; and it may be mentioned that it is not the practice in the justice rooms of the City of London for the witnesses to sign their depositions, unless the accused is committed or bailed for trial, the evidence being in each case fully taken in the manner stated in *Note* 16, *post*, p. 950, and so preserved for future reference. These notes would be admissible in evidence in a subsequent proceeding between the same parties, and may be proved by the clerk who took them, or any one who heard the evidence given. See 3 Russell on Cr., 4th ed. pp. 489—491. The accused is not, however, entitled to a copy of them. See *Note* 43, Vol. I. p. 49, and *Note* 52, *post*, p. 967.

11 & 12 Vict. c. 42. Sect. 17.

"writing,—and such depositions shall be read over to and "signed respectively by the witnesses who shall have been "so examined,—and shall be signed also by the justice or "justices taking the same;—9 and the justice or justices "before whom any such witness shall appear to be examined "as aforesaid shall, before such witness is examined, admi-"nister to such witness the usual oath or affirmation, 10 "which such justice or justices shall have full power and "authority to do;

Deposition to be read on the trial if witness dead. Sect. 17.

"And if upon the trial of the person so accused as first "aforesaid, it shall be proved, by the oath or affirmation of "any credible witness, that any person whose deposition shall "have been taken as aforesaid is dead, or so ill as not to be "able to travel, and if also it be proved that such deposition "was taken in the presence of the person so accused, and "that he *or his counsel or attorney* (see *Note* 2, *ante*, p. 942) "had a full opportunity of cross-examining the witness, then, "if such deposition purport to be signed by the justice by or "before whom the same purports to have been taken, it shall "be lawful to read such deposition as evidence in such prose-"cution, without further proof thereof, unless it shall be "proved that such deposition was not in fact signed by the "justice purporting to sign the same." 11

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9 It is sufficient if the justices, as directed by the Form M, here referred to [No. 51, Oke's "*Formulist*," 6th ed. p. 491], and by the words of this section, sign the jurat only, which is to be written at the *end* of all the depositions (in which jurat, as well as in the caption at the beginning of them, the names of all the witnesses are inserted), and not each deposition, as was required by the repealed act 7 Geo. 4, c. 64, s. 2. See *Reg.* v. *Parker*, 39 L. J. (N. S.) M. C. 60; 21 Law T., N. S. 724, which so decided, overruling several previous decisions to the contrary. See also *Reg.* v. *Carrol*, 11 Cox, C. C. 322 (*Hannen*, J.), since decided to the same effect.

10 *Vide* Vol. I. pp. 84—89, as to the mode of swearing witnesses, Quakers, Jews, &c. Where a person of weak intellect is examined before a magistrate in a case of felony, the magistrate's clerk should take down in the depositions the questions put by the magistrate and the answers given by the witness as to the witness's capacity to take an oath (*Wilde*, C. J., *R.* v. *Painter*, 2 C. & K. 319; 2 Cox, C. C. 244).

11 The deposition, in order to be read as evidence, must appear to relate to the charge upon which the prisoner is being tried (*Reg.* v. *Langbridge*, 18 L. J. (N. S.) M. C. 188; 1 Den. C. C. 448; *Reg.* v. *Miller*, 4 Cox, C. C. 167; *Reg.* v. *Beeston*, 24 L. J. (N. S.) M. C. 5; 1 Dears. C. C. 405), whether before the same justice who completed the case and committed the prisoner or not is immaterial, if the deposition was taken within his jurisdiction (*Reg.* v. *De Vidil*, 9 Cox, C. C. 4, *Blackburn*, J.). It may also be read as evidence before the grand jury (*Reg.* v. *Clements*, 20 L. J. (N. S.) M. C. 193; 2 Den. C. C. 251), if there be medical evidence of the witness's illness (*Reg.* v. *Phillips*, 1 F. & F. 105, per *Erle*,

30 & 31 Vict. c. 35.

Power to take deposition of person dangerously ill and not likely to recover, and to make same evidence in certain events after death of such person.

Sect. 6.

By "The Criminal Law Amendment Act, 1867," 30 & 31 Vict. c. 35, s. 6, after reciting that "by the seventeenth section of "the act eleventh and twelfth Victoria, chapter forty-two, it is "permitted under certain circumstances to read in evidence on "the trial of an accused person the deposition taken in accord-"ance with the provisions of the said act of a witness who is "dead, or so ill as to be unable to travel;" and that "it may "happen that a person dangerously ill, and unable to travel, "may be able to give material and important information "relating to an indictable offence, or to a person accused "thereof, and it may not be practicable or permissible to take, "in accordance with the provisions of the said act, the ex-"amination or deposition of the person so being ill, so as to "make the same available as evidence in the event of his or "her death before the trial of the accused person, and it is "desirable in the interests of truth and justice that means "should be provided for perpetuating such testimony, and for "rendering the same available in the event of the death of "the person giving the same," enacts,—"whenever it shall "be made to appear to the satisfaction of *any justice of the* "*peace* 12 that any person dangerously ill, and in the opinion

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J.), immediately before the trial (*Reg.* v. *Bull*, 12 Cox, C. C. 31, *Blackburn*, J.), otherwise it will not be allowed to be read (*Reg.* v. *Welton*, 9 Cox, C. C. 296, *Byles*, J.; 27 J. P. 24); but if a witness refuse to give evidence before a grand jury, they cannot read his deposition (*Reg.* v. *Rendle*, 11 Cox, C. C. 209, *Channell*, B.). If the witness is kept away by the procurement of the prisoner, or one of them where there are several, it is admissible against him, but not against the others (*Reg.* v. *Scaife*, 20 L. J. (N. S.) M. C. 229; 2 Den. C. C. 281). But the permanent absence abroad of a witness is no reason for receiving his deposition (*Reg.* v. *Austin*, 25 L. J. (N. S.) M. C. 48; 1 Dears. C. C. 612). The deposition, however, of a witness who has an attack of paralysis and is unable to hear or speak or give evidence may be read, though it would not endanger his life to travel or to be brought into court (*Reg.* v. *Cockburn*, 26 L. J. (N. S.) M. C. 136; 1 Dears. & Bell, C. C. 203), and where a witness was too ill to give evidence, or had from an accident lost her memory, though not too ill to be able to travel, the deposition was read, the court being of opinion that the words of the statute, "so ill as not to be able to travel," were applicable to a case where the witness is so ill as not to be able to travel for the purpose of giving evidence (*Reg.* v. *Wilson*, 8 Cox, C. C. 453, *per* Recorder of London, and *Reg.* v. *Adkins*, *per Mellor*, J., Norfolk Circuit, December, 1865). Pregnancy and the confinement of women appear to be "illness" within the sect. 17 (*Reg.* v. *Walker*, 1 F. & F. 534, *Willes*, J.; and see *Reg.* v. *Croucher*, 3 F. & F. 285, *Bramwell*, B.), and are matters for the judicial discretion of the presiding judge (*Reg.* v. *Stevenson*, 31 L. J. (N. S.) M. C. 147; 1 Leigh & Cave, C. C. 165).

12 In *Reg.* v. *Farrell*, 42 L. J., M. C. 94, a witness whose depositions were duly taken was absent from the trial; and it was proved by her

30 & 31 Vict. c. 35.

Power to take deposition of person dangerously ill, &c.

" of some registered medical practitioner not likely to recover " from such illness, is able and willing to give material information relating to any indictable offence,—*or* relating to any " person accused of any such offence, and it shall not be practicable for any justice or justices of the peace to take an " examination or deposition in accordance with the provisions " of the said act of the person so being ill, it shall be lawful for " the said justice to take in writing the statement on oath or " affirmation of such person so being ill, and such justice shall " thereupon subscribe the same, and shall add thereto by way " of caption a statement of his reason for taking the same, and " of the day and place when and where the same was taken, " and of the names of the persons (if any) present at the taking " thereof,—13 and, if the same shall relate to any indictable " offence for which any accused person is already committed " or bailed to appear for trial, shall transmit the same with the " said addition to the proper officer of the court for trial at " which such accused person shall have been so committed or " bailed;—and in all other cases he shall transmit the same to " the clerk of the peace of the county, division, city, or borough " in which he shall have taken the same, who is hereby required " to preserve the same, and file it of record;—and if afterwards, " upon the trial of any offender or offence to which the same " may relate, the person who made the same statement shall " be proved to be dead, or if it shall be proved that there is " no reasonable probability that such person will ever be able " to travel or to give evidence, it shall be lawful to read such " statement in evidence, either for or against the accused, without further proof thereof, if the same purports to be signed " by the justice by or before whom it purports to be taken, and " provided it to be proved to the satisfaction of the court, that

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doctor that she was 74 years of age and very nervous; that she was liable to faint with nervousness at the idea of coming into a public court and being examined, and that it might be dangerous to her, but that she was capable of going to London (from Stafford) to see her doctor without danger or difficulty. In fact, she was living at the time of the trial in the assize town, and not far from the assize court. Upon this it was held by the Court for Crown Cases Reserved that her depositions were improperly received at the trial. Lord Coleridge said, "We think that old age and nervousness and inability to stand a cross-examination is not enough foundation for the reading of the depositions, and that it would raise a dangerous latitude in practice if we were to admit them on such grounds."

13 *Vide* Form of this Caption of a Deposition, No. 58, Oke's "*Formulist*," 6th ed. p. 495.

"reasonable notice of the intention to take such statement has "been served upon the person (whether prosecutor or accused) "against whom it is proposed to be read in evidence, and that "such person, or his counsel or attorney, had or might have "had, if he had chosen to be present, full opportunity of cross-"examining the *deceased** person who made the same." 14

30 & 31 Vict. c. 35.

* *Sic.*

Sect. 7. "Whenever a prisoner in actual custody shall have "served or shall have received notice of an intention to take "such statement as hereinbefore mentioned, the judge or justice "of the peace by whom the prisoner was committed, or the "visiting justices of the prison in which he is confined, may, "by an order in writing, direct the gaoler having the custody "of the prisoner to convey him to the place mentioned in the "said notice for the purpose of being present at the taking of "the statement;—15 and such gaoler shall convey the prisoner "accordingly,—and the expenses of such conveyance shall be "paid out of the funds applicable to the other expenses of the "prison from which the prisoner shall have been conveyed."

Provision for the prisoner being present at taking of statement. Sect. 7.

The order in which the several witnesses will be called will be in the discretion of the prosecutor or his legal adviser (if one appears), who will of course take them in such succession as will best elucidate the facts; but if no professional man attend for the prosecution, and where the case is in any degree complicated, or the number of witnesses large, it is usual and convenient, before taking the depositions of the witnesses, for the police officer who has charge of the case to inform the magistrate's clerk of the substance of the facts to be spoken to by each witness, in order that he may conduct the examinations properly. It must however be understood, that, under

Order of examination of witnesses.

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14 This proviso overrides the whole section, and therefore a deposition cannot be read without proof of the notice being given to the accused before it was *taken;* and that the deposition could have no operation in the case of a deposition taken while the accused was keeping out of the way, as the notice was required to be given to the accused before the taking of the statement, and not to imply before the reading of it: and therefore such statements would appear to be only admissible in evidence as dying declarations (*Reg.* v. *Quigley*, 18 Law T., N. S. 211, *Mellor* and *Lush*, JJ.). It is understood that the proviso was inserted in the bill when in committee, and could not be successfully resisted at the time by the promoters of the bill. The enactments are capable of great improvement, and ought to be extended to other cases than those mentioned in this section. *Vide* Form of Notice, No. 59, Oke's "*Formulist*," 6th ed. p. 495.

15 *Vide* Form of Order, No. 60, Oke's "*Formulist*," 6th ed. p. 495.

the 11 & 12 Vict. c. 42, s. 17 (set out *ante*, pp. 945, 946), it is irregular to write the depositions down except in the presence of the justice and the prisoner, whether from notes previously taken before them or not, although they are subsequently read over to the witnesses, sworn in the presence of both, and the prisoner or his attorney has cross-examined them, and depositions so taken are inadmissible in evidence at the trial. 16

Rules of evidence.

Proof of previous conviction of accused.

The same rules of evidence must be observed as though the case were being finally heard and determined. See Vol. I. pp. 76—108, "Evidence before Justices." If the accused has been before convicted of felony, or of any misdemeanor which subjects him to be treated afterwards for a higher offence or to a greater punishment, the practice in the Metropolitan Police Courts and City Justice Rooms is to receive evidence of such conviction on this examination, either that of the officer or other person present at the conviction or the strict legal evidence, or remand the accused for that purpose (as recommended by the Home Secretary's circular, mentioned at p. 936, *Note* 1), where necessary, or in some cases merely instruct the officer to be prepared with that evidence at the trial. The strict evidence of this is a certificate of the conviction from the clerk of the court, 17 with proof of the identity of the person charged. See also 7 & 8 Geo. 4, c. 28, s. 11; 24 & 25 Vict. c. 96, s. 116, extended by 34 & 35 Vict. c. 112, s. 9, to any felony and certain other offences; 14 & 15 Vict. c. 99, s. 13; 14 & 15 Vict. c. 100, s. 22. "The Prevention of Crimes Act, 1871," 34 & 35 Vict. c. 112, s. 18, contains additional and general enactments as to evidence of previous convictions, which are as follow:—

34 & 35 Vict. c. 112, s. 18.

"A previous conviction may be proved in any legal proceeding whatever against any person by producing a record or extract of such conviction, and by giving proof of the identity of the person

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16 See *R.* v. *Christopher*, 1 Den. C. C. 536; 2 C. & K. 994; *Reg.* v. *Bates*, 2 F. & F. 317; *Reg.* v. *Watts*, 33 L. J. (N. S.) M. C. 63; 1 Leigh & Cave, C. C. 339.

17 In case the conviction took place at an assize, this certificate is obtained from the clerk or deputy clerk of assize of the circuit, who has the records of the court, and if at a quarter sessions, the clerk of the peace of the county or place.

against whom the conviction is sought to be proved with the person appearing in the record or extract of conviction to have been convicted. 18 A record or extract of a conviction shall in the case of an indictable offence consist of a certificate containing the sub-

34 & 35 Vict. c. 112.

Proof of previous conviction of accused.

Sect. 18.

34 & 35 Vict. c. 112, s. 6.

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18 *Identifying certain Criminals by means of Register and Photographs.*] Sect. 6 of 34 & 35 Vict. c. 112, contains in the sub-sections enactments "with a view to facilitate the identification of criminals," viz. :—

"(1.) Registers of all persons convicted of crime* in the United Kingdom shall be kept in such form and containing such particulars as may from time to time be prescribed * * * by one of her Majesty's principal secretaries of state; * * *:

"(2.) The register for England shall be kept in London under the management of the commissioner of police of the metropolis, or such other person as the secretary of state may appoint:

* * * * *

"(5.) In every prison, the gaoler or other governor of the prison shall make returns of the persons convicted of crime and coming within his custody; and such returns shall be in such form or forms and contain such particulars * * * as the secretary of state may require [penalty on gaoler, &c., for neglect, not exceeding £20]:

"(6.) In Great Britain the secretary of state may make regulations as to the photographing of all prisoners convicted of crime who may for the time being be confined in any prison in Great Britain, and may in such regulations prescribe the time or times at which and the manner and dress in which such prisoners are to be taken, and the number of photographs of each prisoner to be printed, and the persons to whom such photographs are to be sent:

"(7.) Any regulations made by the secretary of state as to the photographing of prisoners in any prison in England shall be deemed to be regulations for the government of that prison, and binding on all persons, in the same manner as if they were contained in the first schedule annexed to The Prison Act, 1865 [28 & 29 Vict. c. 126]:

* * * * *

"(10.) Any prisoner refusing to obey any regulation made in pursuance of this section shall be deemed guilty of offence against prison discipline, in England within the meaning of the fifty-seventh regulation in the first schedule annexed to the said Prison Act, 1865 * * *:

"(11.) Any authority having power to make regulations in pursuance of this section may from time to time modify, repeal or add to any regulations so made:

"(12.) Any expenses incurred in pursuance of this section shall be defrayed as follows (that is to say),—

"The expense of keeping the register in London shall, to such amount as may be sanctioned by the Treasury, be paid out of moneys provided by parliament;

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* The word "crime" used in the above section is, by sect. 20 of the act defined to mean "any felony, *or* the offence of uttering false or counterfeit coin, *or* of possessing counterfeit gold or silver coin, *or* the offence of obtaining goods or money by false pretences, *or* the offence of conspiracy to defraud, *or* any misdemeanor under the 58th section of the 24 & 25 Vict. c. 96" [*i. e.* being armed by night with weapons, &c., &c.; see Offences set out in tit. "*Housebreaking*," Chap. II.].

Sect. 20.

34 & 35 Vict. c. 112.

Proof of previous conviction of accused.

Sect. 18.

stance and effect only (omitting the formal part of the indictment and conviction), and purporting to be signed by the clerk of the court or other officer having the custody of the records of the court by which such conviction was made, or purporting to be signed by the deputy of such clerk or officer:—and in the case of a summary conviction shall consist of a copy of such conviction purporting to be signed by any justice of the peace having jurisdiction over the offence in respect of which such conviction was made, or to be signed by the proper officer of the court by which such conviction was made, 19 or by the clerk or other officer of any court to which such conviction has been returned. A record or extract of any conviction made in pursuance of this section shall be admissible in evidence without proof of the signature or official character of the person appearing to have signed the same. A previous conviction in any one part of the United Kingdom may be proved against a prisoner in any other part of the United Kingdom;—and a conviction before the passing of this act shall be admissible in the same manner as if it had taken place after the passing thereof. A fee not exceeding five shillings may be charged for a record of a conviction given in pursuance of this section. The mode of proving a previous conviction authorized by this section shall be in addition to and not in exclusion of any other authorized mode of proving such conviction."

Documentary evidence.

Documents produced in evidence (in case they are in the hands of the accused, of course, after notice to produce has been given to him, *Reg.* v. *Elworthy*, 37 L. J. (N. S.) M. C. 3) should be initialed or stamped by the clerk, and either introduced *in extenso* into the depositions or their purport stated, as the case requires.

Witnesses.

As to ordering witnesses out of court, see Vol. I. p. 167; and as to their refusing to be sworn, &c., see *ante*, p. 940.

Remanding for further evidence, &c.

The justices are quite competent to adjourn the examination either "from the absence of witnesses, *or from any other* "*reasonable cause*" (s. 21, *ante*, p. 936), such as the procuring of evidence on other charges against the accused, &c.; in which case the accused is remanded or bailed; but bail is en-

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"The expenses incurred in photographing the prisoners in any prison shall be deemed to be part of the expenses incurred in the maintenance of the prison, and shall be defrayed accordingly.

"This section shall not apply to the prisons for convicts under the superintendence of the directors of convict prisons, or to any military or naval prison."

19 The mode of certifying this summary conviction is given in Vol. I., *Note* 35, p. 188.

tirely discretionary with the justices on a remand. See *Note* 5, *ante*, p. 936.

Where the accused is charged with two or more felonies or misdemeanors committed at the *same time and in the same jurisdiction* in respect of the same or different prosecutors, or with misdemeanors committed at *different* times but in the same jurisdiction in respect of the same or different prosecutors, the evidence may, if convenient, be taken in one set of depositions; but if the offences are not so committed, one case may be completed, and the commitment in it held over, if necessary, until the completion of the other case (the accused in the meantime being remanded on either charge), and then a detainer made out in the second case.

Where several charges against the accused.

Everything occurring before the magistrates should be taken down in writing and returned with the depositions, as where the prisoner voluntarily makes a remark or statement which is material, during any period of the examination, for it is admissible as evidence, though the prisoner's statement is afterwards taken in writing (3 Russell on Cr., 4th ed. pp. 453, 454); and *Reg.* v. *Stripp* (25 L. J. (N. S.) M. C. 109; 1 Dears. C. C. 648) decides that no caution is necessary by the magistrate till the depositions are all taken and the case for the prosecution completed; and even if such observation be not so taken down, that case and *R.* v. *Jacob* (1 Leach, 309), and *Reg.* v. *Thomas* (14 J. P. 513, per Talfourd, J.), seem to admit that parol evidence of it will be allowed to be given at the trial.[20] If such an observation be taken down, it is proved at the trial by the magistrates' clerk who took it, or any witness who was present and heard it, and is competent to speak to the exact words used. Indeed, the same rule appears to apply to facts of which no mention is made in a witness's deposition, the magistrate's clerk being called on the trial for the purpose of stating that such facts were stated by

Observations by accused during the examination.

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[20] The contrary was held by *Platt*, B., in *R.* v. *Weller*, 2 C. & K. 223; *Reg.* v. *Carpenter*, 2 Cox, C. C. 228, per *Wilde*, C. J., 8 Law T. 558. It should be distinguished in the deposition in this way: "The prisoner on being asked if he wished to put any question to the witness here voluntarily said: ——," *or* "the prisoner at this stage of the proceedings desired to make a statement, and having been given clearly to understand that he was not obliged to say anything now, but that what he did say would be taken down in writing and might be used in evidence against him, voluntarily says as follows: ——," *or* "the prisoner here voluntarily said: ——."

the witness when he made his deposition, but were not taken down by him (*Reg.* v. *Moore*, 20 Law T., N. S. 987, Lush, J.).

Confession of accused under inducement or threat.

Any promise or inducement held out to a prisoner, or any admonition to speak the truth, coupled with any expression importing that it would be better for him to do so, by which he makes a confession or statement to a constable or other person in authority, or to a person directly injured by the crime, renders the statement inadmissible as evidence against him. **21** Any confession or statement, however, made by the accused to the constable or other person, without such promise or inducement,—or to any person not in authority, under such promise or threat,—is admissible as evidence against him; but a constable is not to caution or lead a prisoner to say anything, although it is permitted him to question him. **22** Any fact discovered in consequence of information obtained by a promise, threat or inducement may be given in evidence. **23** Where, after an inducement by a threat or promise has been holden out to a prisoner, the prisoner makes a confession or not, and afterwards he is told by the justice in the words of the proviso in section 18 (*post*, p. 957), that he has nothing to hope from the one or dread from the other, any confession he then makes will be receivable in evidence. **24** In a case, where a police-

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21 *Rex* v. *Upchurch*, R. & Moo. 465; *Rex* v. *Row*, Russ. & Ry. 153; *Rex* v. *Taylor*, 8 C. & P. 733; *Rex* v. *Simpson*, R. & Moo. 410; *Reg.* v. *Hewitt*, Car. & M. 534; *Reg.* v. *Langher*, 2 Car. & K. 225; *Reg.* v. *Garner*, 1 Den. C. C. 329; 18 L. J. (N. S.) M. C. 1; *Reg.* v. *Warringham*, 2 Den. C. C. 447; *Reg.* v. *Moore*, 2 Den. C. C. 521; 21 L. J. (N. S.) M. C. 199; *Reg.* v. *Luckhurst*, and *Reg.* v. *Sleeman*, 23 L. J. (N. S.) M. C. 18, 19; 1 Dears. C. C. 245, 249; *Reg.* v. *Toole*, 7 Cox, C. C. 244. In the case of *Reg.* v. *Rue*, 34 Law T., N. S. 400, a servant girl was questioned by the mother of a child who had been found dead in a ditch, and she was asked whether she had anything to do with its disappearance; upon which see cried and said, "If you won't send for the police, I will tell the truth;" whereupon her mistress replied, "I will not hurt you if you speak the truth; you will be much happier if you tell the truth," and she promised not to send for the police; whereupon the girl made a confession, which upon the trial was rejected as being made under an inducement. It further appeared that shortly after this confession the mistress sent for a neighbour and informed him of the confession, whereupon he had an interview alone with the girl and asked her questions upon the subject, but he held out no inducement, and she then made a similar confession; and it was held that the second confession was so connected under the circumstances with the first that it was inadmissible.

22 *Rex* v. *Taylor*, 8 C. & P. 733; *Reg.* v. *Priest*, 2 Cox, C. C. 378; *Reg.* v. *Day*, Id. 209; see also *Reg.* v. *Collier*, 3 Cox, C. C. 57; *Reg.* v. *Jacobs*, 4 Cox, C. C. 54; *Reg.* v. *Petit*, Id. 164; *Reg.* v. *Garner*, 1 Den. C. C. 329; *Reg.* v. *Millen*, 3 Cox, C. C. 434; *R.* v. *Holmes*, 1 C. & K. 248; *Reg.* v. *Langher*, 2 C. & K. 225; *R.* v. *Thornton*, R. & M. 27.

23 *R.* v. *Warwickshall*, 1 Leach, 263; *R.* v. *Mosey*, Id. 265, n.

24 *R.* v. *Clewes*, 4 Car. & P. 221; *R.* v. *Richards*, 5 Car. & P. 318;

man said to the prisoner, "You need not say anything to criminate yourself; what you do say will be taken down and used as evidence against you:" it was held that that observation did not amount to any promise or threat to induce the prisoner to confess, so as to render a confession made after it inadmissible (*Reg.* v. *Baldry*, 21 L. J. (N. S.) M. C. 130; 2 Den. C. C. 430). 25

Confession of accused under inducement or threat.

FORMS.

[*Vide* M., Nos. 51, 52, Oke's "*Formulist*," 6th ed., pp. 491, 492.]

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3. *Adjourned Examination.*

On the case being resumed after a remand and the accused being present, the witnesses before examined are, if required (and if before another justice must be), again sworn, and their depositions read over to them, and corrected if necessary; and if they have any additional evidence to give it is then taken, the prisoner or his attorney being at liberty to cross-examine as before. The evidence of the further witnesses, if there should be any, is then taken in the same way, and the case completed, as shown *ante*, p. 945, &c. 26

Additional evidence taken, &c.

R. v. *Howes*, 6 Car. & P. 404, *S. P.*; *R.* v. *Hearn*, Car. & M. 109; *R.* v. *Holmes*, 1 C. & K. 248; *R.* v. *Dingle*, 1 C. & K. 637.

25 See also *Reg.* v. *Parker*, 30 L. J. (N. S.) M. C. 144; 1 Leigh & Cave, C. C. 42. In the most recent case of *Reg.* v. *Jarvis* (37 L. J. (N. S.) M. C. 1; 17 Law T., N. S. 178), wherein all the previous cases were referred to by the counsel engaged on one side or the other, one of a firm who employed the prisoner, having called him up into the private counting-house of the firm, in the presence of another of the firm and two officers of police, said, "I think it is right that I should tell you that, besides being in the presence of my brother and myself, you are in the presence of two officers of the police; and I should advise you that to any question that may be put to you, you will answer truthfully, so that if you have committed a fault you may not add to it by stating what is untrue;" and having shown a letter to him, which he denied to have written, added, "Take care; we know more than you think we do." The prisoner thereupon made a confession: it was held that these words did not import an inducement or threat; and that evidence of the confession was admissible. As to the admissibility of statements made by a bankrupt on his examination before a commissioner as evidence in a criminal prosecution, see *Reg.* v. *Sloggett*, 25 L. J. (N. S.) M. C. 93; 1 Dears. C. C. 656; *Reg.* v. *Scott*, 25 L. J. (N. S.) M. C. 128; 1 Dears. & Bell, C. C. 47; *Reg.* v. *Cross and Leyland*, 1 Dears. & Bell, C. C. 68; and *Reg.* v. *Skeen and Freeman*, 1 Bell, C. C. 97; 28 L. J. (N. S.) M. C. 91.

26 *Vide* Oke's "*Formulist*," 6th ed. p. 492, No. 52, for Forms of Caption and Jurats of Depositions on remand day, when taken before another justice or otherwise.

4. *Defence of Accused, and examining his Witnesses.*

If evidence insufficient, accused to be discharged; 11 & 12 Vict. c. 42. Sect. 25.

The evidence for the prosecution being closed, the next course is pointed out by 11 & 12 Vict. c. 42, as follows:—sect. 25 enacts,—"that when all the evidence offered upon the part of "the prosecution against the accused party" [and, as may here be read since 30 & 31 Vict. c. 35, s. 3, *post*, p. 957, also the evidence *for* the accused party], 27 "shall have been heard, "if the justice or justices of the peace then present shall be "of opinion that *it is not sufficient* to put such accused party "upon his trial for *any* indictable offence, such justice or "justices shall forthwith order such accused party, if in cus-"tody, to be discharged as to the information then under "inquiry; 28 but if, in the opinion of such justice or justices, "such evidence is sufficient to put the accused party upon his "trial for *an* indictable offence, *or* if the evidence given raise "a strong or probable presumption of the guilt of such accused "party," the justice or justices are to commit the accused for trial; 29 but before carrying this out, the practice is to hear the attorney for the accused, to read the evidence over, and state the charge or charges to the accused, then to caution him as required by sect. 18, *infra*, and hear his witnesses; and if they conclusively answer the charge or charges the justice or justices should discharge the accused. 29 The sect. 18 enacts—"that after the examination *of all the witnesses* on the "part of the prosecution as aforesaid" [and for the accused,

but if otherwise, committed.

Sect. 18. Depositions to be read, and accused to be cautioned.

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27 In some cases, the justices being informed that witnesses in court will be called for the accused to prove certain facts, might desire to hear them before coming to a decision; and in such a case he may himself call those witnesses and take their depositions in the usual way before or instead of proceeding to carry out the 11 & 12 Vict. c. 42, s. 18.

28 In the cases within 22 & 23 Vict. c. 17, *ante*, pp. 945, 946, the prosecutor may enter into a recognizance to prosecute notwithstanding the accused is discharged by the justices.

29 *When Justices to discharge or commit Accused.*] In *Cox* v. *Coleridge* (1 B. & C. 50), Mr. Justice *Bayley* observed,—"I think that a magistrate is clearly bound, in the exercise of a sound discretion, not to commit any one unless a *primâ facie* case is made out against him by witnesses entitled to a reasonable degree of credit." Justices ought not, therefore, to *balance* the evidence and decide according as it preponderates, for this would, in fact, be taking upon themselves the functions of the petty jury, and be trying the case; but they should consider whether or not the evidence makes out a strong, or probable, or even a *conflicting* case of guilt; in any one of which cases they should commit the accused to trial. If, however, from the slender nature of the evidence, the unworthiness of the witnesses, or the conclusive proof of innocence produced on the part of the accused, they feel that the case is not sustained, and that if they sent it for trial he must be acquitted, they should discharge the accused.

30 & 31 Vict. c. 35, s. 3, *post*, p. 959] "shall have been "completed, the justices of the peace, or one of the justices "by or before whom such examination shall have been so "completed as aforesaid, shall, without requiring the attend- "ance of the witnesses, read or cause to be read to the accused "the depositions taken against him, and shall say to him "these words, or words to the like effect:—

11 & 12 Vict. c. 42. Sect. 18.

"'*Having heard the evidence, do you wish to say anything* "'*in answer to the charge? you are not obliged to say anything* "'*unless you desire to do so, but whatever you say will be taken* "'*down in writing, and may be given in evidence against you* "'*upon your trial;*' 30

"And whatever the prisoner shall then say in answer thereto "shall be taken down in writing (N) and read over to him,— "and shall be signed by the said justice or justices,—and "kept with the depositions of the witnesses,—and shall be "transmitted with them as hereinafter mentioned;—and after- "wards upon the trial of the said accused person the same "may, if necessary, be given in evidence against him;—with- "out further proof thereof, unless it shall be proved that the "justice or justices purporting to sign the same did not in "fact sign the same;—provided always, that the said justice "or justices, before such accused person shall make any state- "ment, *shall state to him, and give him clearly to understand,* "*that he has nothing to hope from any promise of favour, and* "*nothing to fear from any threat, which may have been holden* "*out to him to induce him to make any admission or confession* "*of his guilt, but whatever he shall then say may be given in* "*evidence against him upon his trial, notwithstanding such pro-* "*mise or threat:*—provided, nevertheless, that nothing herein "enacted or contained shall prevent the prosecutor in any case "from giving in evidence any admission or confession or "other statement of the person accused or charged, made at

Statement to be read as evidence on trial.

First proviso and further caution.

Second proviso.

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30 The words "should you be committed for trial" might with propriety be added to this statutory caution after the word "trial," because, should the witnesses, if any, called for the accused, who may, under 30 & 31 Vict. c. 35, s. 3, be called at this stage of the inquiry, exculpate the accused, he should be discharged by the justices under 11 & 12 Vict. c. 42, s. 25, *supra*. Pursuant to 30 & 31 Vict. c. 35, s. 3, there should be also added to this caution after the last-suggested addition—"*Do you desire to call any witness? If you do, it must be done after you have made your own statement.*"

"any time, which by law would be admissible as evidence "against such person." 31

Receiving evidence for the accused party.

Before the passing of the 30 & 31 Vict. c. 35, justices were not bound to receive evidence offered for an accused; but if he were charged with having stolen property, and gave a reasonable account of how he came by it, and referred to some person as the person from whom he received it, the magistrate should have sent for, and should now send for, and examine that person with a view to exonerate or to contradict the accused; 32 not, however, where the accused gives two different accounts, although it may be prudent to have the persons at the trial; 33 nor where circumstances exist in the case which render that account unreasonable, or its truth improbable. 34 Where a person charged with felony has witnesses in attendance at the time of the examination before the magistrate, Lord Denman, C. J., recommended that they should be then examined if the prisoner wished it, and if their evidence is believed, and

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31 *Cases on Statement of Accused—Statement of his Counsel or Attorney.*] See *ante*, pp. 950, 951, and *Notes* 20 and 24. See as to the admissibility of the statement, *Reg.* v. *Sansome*, 19 L. J. (N. S.) M. C. 143; 1 Den. C. C. 545; 3 C. & K. 332; *Reg.* v. *Bond*, 19 L. J. (N. S.) M. C. 138; 1 Den. C. C. 517. The particular enactment contained in the first proviso to sect. 18, *supra*, is directory only (cases Id.); and if the statement appears upon the face of it to have been duly taken, and to have been transmitted with the depositions, it is receivable in evidence without further proof (*Reg.* v. *Harris*, 4 Cox, C. C. 147, per *Erle*, J.). Mr. Justice *Coleridge*, in July, 1850, in his charge to a grand jury, said, in speaking of the prisoner's statement,—"Now it would simplify the matter very much if, as well as printing the first part given in the schedule of the act, you were also to print the latter part, so as to prevent any difficulties when the case comes to trial." The words recommended should be added in these terms: "*And you are also clearly to understand that you have nothing to hope from any promise of favour, and nothing to fear from any threat which may have been holden out to you to induce you to make any admission or confession of your guilt; but whatever you shall now say may be given in evidence against you upon your trial, notwithstanding such promise or threat.*" See 3 Russell on Crimes, 4th ed. p. 445. In many cases the accused simply says that he leaves his defence in the hands of his counsel or solicitor, instead of making a statement. In these cases, as the counsel or solicitor's argument in defence is not taken down in writing, and therefore will not be in possession of the court before whom the accused is tried, it is usual in important cases for a written statement of the accused, prepared by his legal adviser, to be handed in to the justices and to form part of the depositions to be transmitted to the court above.

32 *Reg.* v. *Crotchurst*, 1 Car. & K. 370; *Reg.* v. *Hughes*, 1 Cox, C. C. 176; *Reg.* v. *Smith*, 2 Car. & K. 207, per *Denman*, C. J.

33 *Reg.* v. *Dibley*, 2 Car & K. 818. In *Reg.* v. *Wilson* (26 L. J. (N. S.) M. C. 45; 1 Dears. & Bell, C. C. 157), it was held, that it is not necessarily incumbent on the prosecution to call the persons to whom the prisoner has referred to disprove his statement.

34 *Reg.* v. *Harmer*, 3 Cox, C. C. 487.

answers the charge, no further proceedings need be taken; but if these witnesses contradict those for the prosecution in material points, the case should be sent to a jury, and the depositions of the accused's witnesses should be taken and signed by them and transmitted to the judge, together with the depositions in support of the charge. 35 Now, by 30 & 31 Vict. c. 35, s. 3, after reciting that "complaint is frequently "made by persons charged with indictable offences, upon "their trial, that they are unable by reason of poverty to call "witnesses on their behalf, and that injustice is thereby occa-"sioned to them; and it is expedient to remove, as far as "practicable, all just ground for such complaint," enacts, "in "all cases where any person shall appear or be brought be-"fore any justice or justices of the peace, charged with any "indictable offence, whether committed within this realm or "upon the high seas or upon land beyond the sea, and whether "such person appear voluntarily upon summons, or has been "apprehended with or without warrant, or be in custody for "the same or any other offence, such justice or justices before "he or they shall commit such accused person for trial or "admit him to bail, shall, immediately after obeying the "directions of the eighteenth section of the act eleventh and "twelfth Victoria, chapter forty-two" (*ante*, p. 952), "demand "and require of the accused person whether he desires to call "any witnesses;—and if the accused person shall, in answer "to such demand, call or desire to call any witness or wit-"nesses, such justice or justices shall, in the presence of such "accused person, take the statement on oath or affirmation, "both examination and cross-examination, of those who shall "be so called as witnesses by such accused person, and who "shall know anything relating to the facts and circumstances "of the case or anything tending to prove the innocence of "such accused person, and shall put the same into writing; 36 "and such depositions of such witnesses shall be read over to "and signed respectively by the witnesses who shall have "been so examined, and shall be signed also by the justice or "justices taking the same, and transmitted in due course of

30 & 31 Vict. c. 35. Sect. 3.

Accused person to be asked by justice if he desire to call witnesses.

Their depositions to be taken and returned to court of trial if accused person call any.

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35 2 Car. & Kir. 845, Taunton Lent Assizes, 1849.

36 *Vide* form No. 54, Oke's "*Formulist*," 6th ed. pp. 492, 493, adapted to this enactment. These witnesses for the accused, if tendered, should be examined notwithstanding the charge be one of libel under 6 & 7 Vict. c. 96, which can only be justified before a jury.

30 & 31 Vict. c. 35.

"law with the depositions,—and such witnesses, not being "witnesses merely to the character of the accused, as shall in "the opinion of the justice or justices give evidence in any "way material to the case *or tending to prove the innocence of* "*the accused person*, 37 shall be bound by recognizance to "appear and give evidence at the said trial;—and afterwards, "upon the trial of such accused person, all the laws now in "force relating to the depositions of witnesses for the prose-"cution shall extend and be applicable to the depositions of "witnesses hereby directed to be taken."

Provisions of 11 & 12 Vict. c. 42, extended to this act.

Sect. 4.

Sect. 4. "All the provisions of the said act eleventh and "twelfth Victoria, chapter forty-two, relating to the summon-"ing and enforcing the attendance and committal of wit-"nesses, and binding them by recognizance and committal in "default, and for giving the accused person copies of the "examinations, and giving jurisdiction to certain persons to "act alone, shall be read and shall have operation as part of "this act." 38

Sect. 5.

Sect. 5 (set out, *post*, p. 985) authorizes the court where the accused is tried to allow the expenses of the witnesses called by him who are bound over by the justices to give evidence on the trial.

FORM.

[*Vide* N, No. 54, Oke's "*Formulist*, 6th ed. pp. 492, 493.]

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5. *Examination for an Offence in another Jurisdiction.*

11 & 12 Vict. c. 42, s. 11.

Where accused is arrested under a backed warrant.

11 & 12 Vict. c. 42, s. 11, *ante*, p. 897, provides regulations for the backing of a warrant and the arrest of the accused thereunder, and bringing him before the justice who backed it, if so directed, who may then take the examination of the witnesses (see sect. 22, *infra*).

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37 Not *actually proving* the innocence of the accused, for in that case it is apprehended the accused *must be* discharged, as sect. 25 of 11 & 12 Vict. c. 42, then comes into operation, this provision of 30 & 31 Vict. c. 35, s. 3, being taken as a part of sect. 18 of 11 & 12 Vict. c. 42.

38 The provisions referred to in the 11 & 12 Vict. c. 42, as to summoning witnesses, are in sect. 16, *ante*, p. 939; binding them by recognizance and committal, sect. 20, *post*, p. 966; giving accused copies of depositions, sect. 27, *post*, p. 967; and as to jurisdiction of certain persons to act alone, see sect. 29, as to metropolitan police and stipendiary magistrates, and sect. 30 as to the lord mayor and an alderman of the city of London.

11 & 12 Vict. c. 42.

Examination, &c. where the offence was committed in another county, &c.

Sect. 22.

Accused may be examined where apprehended.

Sect. 22, after reciting that "it often happens that a person "is charged before a justice of the peace with an offence "alleged to have been committed in another county or place "than that in which such person has been apprehended, or "in which such justice has jurisdiction, and it is necessary to "make provision as to the manner of taking the examination "of the witnesses, and of committing the party accused, or "admitting him to bail, in such a case," enacts,—"that "whenever a person shall appear or shall be brought before "a justice or justices of the peace in the county, riding, "division, liberty, city, borough, or place wherein such justice or justices shall have jurisdiction, charged with an "offence alleged to have been committed by him in any "county or place within England or Wales wherein such "justice or justices shall *not* have jurisdiction, it shall be "lawful for such justice or justices, and he and they are "hereby required, to examine such witnesses, and receive "such evidence in proof of such charge as shall be produced "before him or them, within his or their jurisdiction;—

If evidence sufficient, committal to prison where offence committed.

"And, if in his or their opinion such testimony and evidence *shall be sufficient* proof of the charge made against "such accused party, such justice or justices shall thereupon "commit him to the common gaol or house of correction for "the county, &c. where the offence is alleged to have been "committed, or shall admit him to bail as hereinafter mentioned,—39 and shall bind over the prosecutor (if he have "appeared before him or them) and the witnesses by recognizance accordingly, as is hereinbefore mentioned;—40

If insufficient, accused to be taken into county, &c. where offence committed.

"But if such testimony and evidence *shall not* in the opinion "of such justice or justices *be sufficient* to put the accused party "upon his trial for the offence with which he is so charged, "then such justice or justices shall 41 bind over such witnesses "as he shall have examined, by recognizance, to give evidence, "as hereinbefore is mentioned,—42 and such justice or justices

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39 Sect. 23, *post*, pp. 977—981, as to bailing accused, &c.

40 Sect. 20, *post*, p. 966, as to binding over prosecutor, &c.

41 The discretion with the justice in this case is either to commit the accused for trial or to send him into the county, &c. where offence committed. By the terms of this section the justice is not to discharge the accused, although he has the *whole* of the evidence before him, and that evidence is clearly insufficient to warrant a committal; but he may safely do so under such circumstances.

42 Sect. 21, *ante*, p. 936, to give evidence on the *further* examination of the charge, or sect. 20, *post*, p. 966, to give evidence on the trial if the

11 & 12 Vict. c. 42. Sect. 22.

"shall, by warrant (R 1), under his or their hand and seal or "hands and seals, order such accused party to be taken before "some justice or justices of the peace in and for the county, &c. "where and near unto the place where the offence is alleged "to have been committed,—and shall at the same time deliver "the information and complaint, and also the depositions and "recognizances so taken by him or them, to the constable who "shall have the execution of such last-mentioned warrant, to "be by him delivered to the justice or justices before whom "he shall take the accused in obedience to the said warrant,— "and which said depositions and recognizances shall be "deemed to be taken in the case, and shall be treated to all "intents and purposes as if they had been taken by or before "the said last-mentioned justice or justices,—and shall, to- "gether with such depositions and recognizances as such last- "mentioned justice or justices shall take in the matter of such "charge against the said accused party, be transmitted to the "clerk of the court where the said accused party is to be tried, "in the manner and at the time hereinbefore mentioned, [43] "if such accused party shall be committed for trial upon the "said charge, or shall be admitted to bail:—

Costs of conveying the accused into the proper county, &c. to be borne by the last-mentioned county, &c.

"And in case such accused party shall be taken before the "justice or justices last aforesaid by virtue of the said last- "mentioned warrant, the constable or other person or persons "to whom the said warrant shall have been directed, and who "shall have conveyed such accused party before such last- "mentioned justice or justices, shall be entitled to be paid his "costs and expenses of conveying the said accused party be- "fore the said justice or justices,—and upon the said con- "stable or other person producing the said accused party "before such justice or justices and delivering him into the "custody of such person as the said justice or justices shall "direct or name in that behalf, and upon the said constable "delivering to the said justice or justices the warrant, infor- "mation (if any), depositions and recognizances aforesaid, "and proving by oath the handwriting of the justice or jus- "tices who shall have subscribed the same, such justice or "justices to whom the said accused party is so produced shall

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witnesses so examined have completed their evidence, is here intended; but there is no power in the statute to bind witnesses to give evidence on a further examination.

[43] Sect. 20, *post*, p. 966.

"thereupon forthwith ascertain the sum which ought to be "paid to such constable or other person for conveying such "accused party and taking him before such justice or justices, "as also his reasonable costs and expenses of returning, and "thereupon such justice or justices shall make an order (R 2) "upon the treasurer of the county, riding, division or liberty, "city, borough or place,—or if such city, borough or place "shall be contributory to the county rate of any county, "riding, division or liberty then upon the treasurer of such "county, riding, division or liberty respectively to which it is "contributory,—for payment to such constable or other person "of the sum so ascertained to be payable to him in that "behalf, and the said treasurer, upon such order being pro-"duced to him, shall pay the amount to the said constable or "other person producing the same, or to any person who "shall present the same to him for payment:— 11 & 12 Vict. c. 42. Sect. 22.

"Provided always, that if such last-mentioned justice or "justices shall not think the evidence against such accused "party sufficient to put him upon his trial, and shall discharge "him without holding him to bail, every such recognizance "so taken by the said first-mentioned justice or justices as "aforesaid shall be null and void." 44 Proviso.

FORMS.

[*Vide* R. 1, 2, Nos. 62, 63, Oke's "*Formulist*," 6th ed., p. 496.]

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6. *Committal or Discharge of Accused.*

In cases where an indictment is already found against an accused, the course to be pursued is pointed out by 11 & 12 Vict. c. 42, s. 3 (*ante*, p. 910), whether he is already in custody or at large. If at large, a warrant is to be granted for his apprehension, and he is, on proof only of identity, to be committed for trial; if he is in custody, a warrant of detainer is lodged at the gaol. Commitment of accused on an indictment found. Sect. 3.

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44 Notice should be given of this fact to the witnesses who have been bound over to appear on the trial. If any one of them is in custody for not entering into the recognizance, he should be at once discharged pursuant to the proviso to sect. 20, *post*, p. 966.

11 & 12 Vict. c. 42.

When more than one justice hearing case, decision to be made by majority.

Where a charge is heard and completed before two or more justices, the decision in the case, whether of committal or discharge of the accused, should be that of the majority of the justices present and acting in the case. If only two justices hear it and they differ in opinion, or if more than two and there is not a majority upon the question of committal or discharge, the course taken should be to adjourn the case, and on the attendance of additional or other justices to re-swear before them and the accused the witnesses already examined and read over to them their former depositions, and the decision of the majority of such justices would determine the question.

Sect. 25.

In ordinary cases, after the statement of the accused and the evidence (if any) tendered on his behalf is heard, the accused is discharged or committed for trial, as pointed out by sect. 25 (*ante*, p. 956). By that section the "justice or justices "shall, by his or their warrant (T 1), commit him to the "common gaol or house of correction for the county, riding, "division, liberty, city, borough or place to which *by law he* "*may now be* committed,—45 or, in the case of an indictable

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45 The committal may be to the common gaol of the county, &c.: or it may be to any house of correction near to the place where the assizes or sessions are to be holden at which the accused is intended to be tried (5 & 6 Will. 4, c. 38, s. 3). By 14 & 15 Vict. c. 20, justices in quarter sessions for a county, riding or division may declare that any gaol or house or correction for such county, &c. is a fit prison for persons committed for trial at the assizes. As to committals for offences not triable at quarter sessions from certain counties of cities or towns to which a commission of oyer and terminer is not directed, the offender is committed to the city or town gaol, and the commitment is to state that it is made pursuant to 14 & 15 Vict. c. 55; but the recognizances to prosecute and give evidence are to be conditioned to appear, &c. at the assizes for the next adjoining county (14 & 15 Vict. c. 55, s. 19), and the offender is to be removed to the county gaol previous to the trial (sect. 21). If an offence is committed in a borough which is situate partly in one county and partly in another, the offence is triable in either county under this act (14 & 15 Vict. c. 55, s. 19; *Reg.* v. *Gallant*, 1 F. & F. 517, *Pollock*, C. B.). As to committals from towns, &c., not being counties, the 60 Geo. 3 & 1 Geo. 4, c. 19, s. 1, authorizes the justices to commit for capital felonies to the gaol of the county, to be tried at the next assizes; and as to the committal for felonies in boroughs or franchises having or not having a power to determine felonies, see 4 & 5 Will. 4, c. 27, ss. 1, 2, 3, and 13 & 14 Vict. c. 91, s. 1. "The Prison Act, 1865," 28 & 29 Vict. c. 126, ss. 63—66, contains provisions for the removal of prisoners from one prison to another for trial, and for other causes.

As to where the committal must be, whether to the assizes or quarter sessions, see the provisions of the 5 & 6 Vict. c. 38, as amended in respect to bankruptcy offences, set out *post*, pp. 973, 974. When the offence is triable at either, and the sessions will be holden first, the justices may commit to either, and consequently over to the ordinary assizes; but if the assizes take place first, they should send the case to it, as the judges

"offence committed *on the high seas, or on land beyond the* "*sea*,[46] to the common gaol of the county, riding, division, "city, liberty, borough, or place within which such justice or "justices shall have jurisdiction,—to be there safely kept "until he shall be thence delivered by due course of law,— "or admit him to bail as hereinbefore mentioned."[47]

Detainer of accused on second charge.

If the accused is intended to be committed on two or more charges of felony or misdemeanor, which cannot be included in one indictment, a commitment should be made in one charge and a detainer in the other or each of the others.[48]

Form of charges.

As to the form of the technical charges, it is advisable, since the Vexatious Indictments Act, 22 & 23 Vict. c. 17, *ante*, pp. 876, 877 (as amended by 30 & 31 Vict. c. 35, ss. 1, 2), in cases to which it and the evidence apply, to frame the commitment and detainers with some care and particularity, as well as the recognizance to prosecute, in order to render unnecessary an application to the court or a judge for leave to indict or insert counts for the offences in such cases.

FORM.

[*Vide* T 1, No. 55, Oke's "*Formulist*," 6th ed. p. 493.]

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7. *Ordering Prosecution in certain Cases.*

24 & 25 Vict. c. 100.

For assaults, &c. on poor persons and apprentices, or persons under sixteen.

Justices have no general power to order a prosecution to be instituted or carried on; but with respect to offences by masters on poor persons or apprentices, or assaults on persons under sixteen years of age, the 24 & 25 Vict. c. 100, s. 73, enacts,—

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could deliver the gaol of such prisoners as the justices commit for the sessions. With respect to the winter gaol delivery, prisoners triable at quarter sessions should not (unless from the circumstances of any particular case the committing magistrate shall deem it expedient) be committed for trial thereat, nor does that gaol delivery, as a rule, take any bail cases. It is desirable that the commitment should definitely state whether the accused is to be detained until the sessions or the assizes.

As to the special venue in certain offences, and where they can be tried, see Vol. I., paragraphs Nos. 18—26, pp. 22—25, which, when necessary, is noticed under the respective titles in Chap. II. of this Part, *post*.

[46] As to the Admiralty jurisdiction, see p. 903. As to what offences committed on land beyond the seas are triable in England, see p. 904.

[47] In sect. 23, *post*, p. 977, "Bailing Accused after Examination."

[48] See *ante*, p. 953, where several charges against accused, and Form of Detainer, Oke's "*Formulist*," 6th ed., No. 56, p. 494.

24 & 25 Vict. c. 100.

Guardians and overseers may be required to prosecute.

Sect. 73.

"Where any complaint shall be made of any offence against "sect. 26 of this act,—49 *or* of any bodily injury inflicted upon "any person under the age of sixteen years, for which the party "committing it is liable to be indicted, and the circumstances "of which offence amount, in point of law, to a felony, *or* an "attempt to commit a felony, *or* an assault with intent to "commit a felony,—and two justices of the peace before whom "such complaint is heard shall certify under their hands 50 "that it is necessary for the purposes of public justice that the "prosecution should be conducted by the guardians of the "union or place, or, where there are no guardians, by the "overseers of the poor of the place, in which the offence shall "be charged to have been committed, such guardians or over-"seers as the case may be, upon personal service of such "certificate or a duplicate thereof upon the clerk of such "guardians or upon any one of such overseers, shall conduct "the prosecution, and shall pay the costs reasonably and "properly incurred by them therein (so far as the same shall "not be allowed to them under any order of any court) out of "the common fund of the union, or out of the funds in the "hands of the guardians or overseers, as the case may be;—

Costs of prosecution.

Clerk of guardians may be bound over to prosecute.

"and, where there is a board of guardians, the clerk or some "other officer of the union or place, and, where there is no "board of guardians, one of the overseers of the poor, may, if "such justices think it necessary for the purposes of public "justice, be bound over to prosecute."

For perjury before justices.

See also 14 & 15 Vict. c. 100, s. 19, in Vol. I. p. 91, as to prosecutions for perjury.

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8. *Returning Depositions, furnishing Copies and Restoration of Prisoner's Property.*

11 & 12 Vict. c. 42.

Depositions, &c. to be returned to the court in which the trial is to be had.

Sect. 20.

By 11 & 12 Vict. c. 42, s. 20, it is provided (*inter alia*),—that "the several recognizances so taken [of the prosecutor "and witnesses], together with the written information (if "any), the depositions, the statement of the accused, and the "recognizance of bail (if any), in every such case, shall be de-"livered by the said justice or justices, or he or they shall

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49 See these offences in title "Servants," *post*, Chap. II.

50 *Vide* Form of Certificate, Oke's "*Formulist*," 6th ed., No. 498, p. 603.

"cause the same to be delivered, to the proper officer of the "court in which the trial is to be had before or at the opening "of the said court on the first day of the sitting thereof, or at "such other time as the judge, recorder or justice, who is to "preside in such court at the said trial, shall order and ap-"point." 51

Accused entitled to copies of the depositions. Sect. 27.

By sect. 27,—"at any time after *all the examinations* afore-"said shall have been *completed*, and before the first day of "the assizes or sessions or other first sitting of the court at "which any person so committed or admitted to bail as afore-"said is to be tried, such person may require, and shall be "entitled to have, of and from the office or person having the "custody of the same, copies of the *depositions* on which he "shall have been committed or bailed, on payment of a "reasonable sum for the same, not exceeding at the rate of "three halfpence for each folio of ninety words." 52 By 6 & 7 Will. 4, c. 114, s. 23, (not repealed in this respect,) the judge at the assizes, or the person presiding at the court where the prisoner is to be tried, may allow him to have copies of the depositions where he has not applied for them before the first day of the assizes or sessions, and the trial may be put off on that account.

Restoration of prisoner's property.

Justices have in certain cases the same powers as those possessed by the judge at the trial to order the restoration of property belonging to an accused taken possession of by the constable. In these cases, if it appears to the justices that there is no connection between the subject-matter of the charge and the property sought to be returned, or that it is not relating to

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51 For the assizes the depositions, &c. are sent to the clerk of assize; for the sessions, to the clerk of the peace of the county or borough, at such time before the trial as the sessions direct. The depositions that have been made at all the examinations that have taken place should be returned, and as well of those witnesses who are not bound over as of those called by the prisoner (3 Russell on Crimes, 4th ed. p. 496).

52 It will appear by this section that the prisoner is not entitled to copies of the depositions until the case is completed for trial, and this was the law previous to this statute (*Ex parte Fletcher*, 13 L. J. (N. S.) M. C. 67; *Reg.* v. *Lord Mayor of London*, 5 Q. B. 555); nor is the defendant entitled to them when the charge against him is dismissed (*Ex parte Humphreys*, 19 L. J. (N. S.) M. C. 189; 15 Law T. 142), nor to the notes of evidence taken (see *Note* 8, *ante*, p. 945). The section does not extend to the furnishing of copies of the prisoner's statement, but in practice it is given to him with the depositions: nor does it apply to the supplying copies of the proceedings to the prosecutor, but in practice they are furnished also. By 30 & 31 Vict. c. 35, s. 4 (*ante*, p. 960), the accused is entitled to copies of the depositions of the witnesses called by him.

a crime which may form the subject of inquiry, they should order it to be restored, provided it be in itself of a harmless nature.[53]

42 & 43 Vict. c. 49, s. 44.

Now by sect. 44 of the 42 & 43 Vict. c. 49 (Summary Jurisdiction Act, 1879), it is enacted that "where any property has "been taken from a person charged before a court of summary jurisdiction with any offence punishable either on indictment or on summary conviction, a report shall be made "by the police to such court of summary jurisdiction of the "fact of such property having been taken from the person "charged and of the particulars of such property, and the "court shall, if of opinion that the property, or any portion "thereof, can be returned consistently with the interests of "justice, and with the safe custody of the person charged, "direct such property, or any portion thereof, to be returned "to the person charged, or to such other person as he may "direct."

Notice to be given of fresh evidence against the accused.

Where new evidence is obtained against an accused after the depositions have been completed, it is the proper practice for the attorney for the prosecution to give notice to the accused or his attorney of the names of the witnesses and the substance of what it is expected they will prove, and to furnish the judge with a copy of it, in order that he may be able to inform the grand jury, the prisoner, or the prisoner's counsel of its effect;[54] but notwithstanding, a witness whose evidence is relevant may be called by the prosecution (*Reg.* v. *Greenslade*, 11 Cox, C. C. 412—Brett, J.). Of course, a justice has no jurisdiction to administer an oath or take the examination of a witness after the accused has been committed, except in the

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53 In *Reg.* v. *O'Donnell*, 7 Car. & P. 138, Mr. Justice *Patteson* made these very proper remarks: "The prisoner complains that his money was taken from him, and that he was thereby deprived of the means of making his defence. Generally speaking, it is not right that a man's money should be taken away from him, unless it is connected in some way with the property stolen. If it is connected with the robbery, it is quite proper that it should be taken; but unless it is, it is not not a fair thing to take away his money, which he might use for his defence. I believe constables are too much in the habit of taking away everything they find upon a prisoner, which is certainly not right; and this is a rule which ought to be observed by all policemen and other peace officers." *Vide* the proviso to sect. 26, *post*, p. 981, enabling justices to order any money found upon a prisoner to be applied to or towards the payment of the expenses of conveying him to prison.

54 *Reg.* v. *Stiginani*, 10 Cox, C. C. 502, *Willes*, J. Mr. Justice *Willes* on the Western Circuit, 1865, observed, that if he found any laxity in this respect he should disallow the expenses.

cases provided by 30 & 31 Vict. c. 35, s. 6, *ante*, pp. 947, 948, nor could it, if taken, be returned as a deposition.

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9. *Removal of Prisoners for Trial at the Central Criminal Court.*

19 & 20 Vict. c. 16.

Court of Queen's Bench may order certain offenders to be tried at the Central Criminal Court.

The following is an abstract of the 19 & 20 Vict. c. 16, "to empower the Court of Queen's Bench to order certain "offenders to be tried at the Central Criminal Court:"—

Sect. 1. The Court of Q. B. may order indictments removed into that court, either before or after passing of act, to be tried at the Central Crim. C.

Sect. 2. Where any such order is made, the indictment is to be transmitted to the Central Crim. C.

Sect. 3. The Court of Q. B. may order any person charged with any offence committed out of the jurisdiction of the Central Crim. C. to be tried at that court, and thereupon a *certiorari* shall issue to remove the indictment into that court.

Sects. 4, 5. When any such order has been made, the depositions, &c. are to be returned to the Central Crim. C.; and the prisoner removed to her Majesty's Gaol of Newgate.

Sect. 6. A defendant need not appear in person, nor plead in the Q. B.

Sect. 7. A defendant is to be arraigned, plead and be tried in the Central Crim. C. as if the offence had been committed within its jurisdiction.

Sects. 8, 9. When a *certiorari* is delivered to any court to remove any indictment, such court shall bind the prosecutor and witnesses to appear at the trial; and may bail or commit any defendant who has appeared there under recognizance; but the court cannot discharge any defendant then in prison (s. 11).

Sect. 10. All recognizances to be obligatory on persons entering into them to prosecute, &c. at the Central Crim. C., if notice be given of the change of the court. Court of Q. B. may require party applying for a trial at the Central Crim. C. to give notice to all parties bound by recognizance.

Sect. 12. Process may be issued against any defendant at large, and witnesses may be compelled to attend the trial.

Sect. 13. Expenses of prosecution and rewards may be ordered to be paid.

Sect. 14. Her Majesty in council may make rules to effect the purposes of act.

19 & 20 Vict. c. 16.

Sect. 15. No objection is to be taken to any *certiorari*, order, or other proceeding for removing any indictment, &c.

Sect. 16. When the indictment has been transmitted, the Central Crim. C. shall have the same authority as if the offence had been committed within its jurisdiction.

Sect. 17. It shall not be necessary to prove that any indictment has been properly removed or transmitted.

Sect. 18. Verdicts and judgments to be valid.

Sect. 19. Any person convicted may be sentenced to be punished either in the county where the offence was committed, or within the jurisdiction of the Central Crim. C.

Sects. 20, 21. Any prisoner removed or committed to Newgate may be taken to and from the Central Crim. C. as often as necessary; and whilst being removed or detained, is to be deemed to be in lawful custody.

Sect. 22. Any defendant on bail may be bailed again or committed to Newgate.

Sect. 23. Prosecutor and witnesses may be bound by recognizance to appear at the Central Crim. C.

Sect. 24. The Court of Q. B. may impose any terms which seem reasonable on any defendant applying to be tried at the Central Crim. C.

Sect. 25. Where the crown or the prosecutor obtains a trial at the Central Crim. C. the expenses of witnesses shall be advanced to the defendant.

Sect. 26. Power to court to order expenses of any person acquitted to be paid.

Sects. 27, 28. The treasurer of the county where the offence was committed shall pay the expenses of the prisoner's maintenance, &c. in Newgate, of which an account is to be sent.

Sect. 29. The act is not to apply to any peer or peeress.

Military murders.

The 25 & 26 Vict. c. 65, contains almost identical provisions in respect to murder committed by persons subject to the Mutiny Act.

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10. *Taking Depositions of Persons dangerously Ill after Committal, or Bailing Accused, or where no Accused.*

See the provisions applicable in 30 & 31 Vict. c. 35, ss. 6, 7, *ante*, pp. 947—949.

SECT. VI. BINDING OVER PROSECUTOR AND WITNESSES, &C.

11 & 12 Vict. c. 42.

Justices to bind over prosecutor and witnesses by recognizance.

Sect. 20.

11 & 12 Vict. c. 42, s. 20, enacts,—"that it shall be lawful "for the justice or justices before whom any such witness shall "be examined as aforesaid to bind by recognizance (O 1) the "prosecutor 1 and every such witness to appear at the next "court of oyer and terminer or gaol delivery, or superior court "of a county palatine, or court of general or quarter sessions "of the peace, at which the accused is to be tried, 2 then and "there to prosecute,—or to prosecute and give evidence,—or "to give evidence, as the case may be,—against the party "accused, 3—which said recognizance shall particularly specify "the profession, art, mystery, or trade of every such person "entering into or acknowledging the same, together with his "christian and surname, and the parish, township, or place "of his residence, and if his residence be in a city, town, or "borough, the recognizance shall also particularly specify the "name of the street, and the number (if any) of the house in "which he resides, and whether he is owner or tenant thereof "or a lodger therein;—and the said recognizance, being duly "acknowledged by the person so entering into the same, shall "be subscribed by the justice or justices before whom the "same shall be acknowledged, and a notice (O 2) thereof, "signed by the said justice or justices, shall at the same time "be given to the person bound thereby:—

Depositions, recognizances, &c. to be transmitted to the court in which trial is to be had.

"And the several recognizances so taken, together with the "written information (if any), the depositions, the statement "of the accused, and the recognizance of bail (if any) in every "such case, shall be delivered by the said justice or justices or "he or they shall cause the same to be delivered to the proper "officer of the court in which the trial is to be had, before or

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1 If the owner of goods, &c., is unwilling to prosecute, the justices may bind over the constable or other person to do so, and bind over the owner to give evidence, and commit the latter for refusing to enter into the recognizance; but a prosecutor only, who does not give evidence, cannot be committed under this section, nor indeed under any other. The manner of stating the recognizance to the persons bound will be found in *Note* 4, Vol. I. p. 159.

2 What cases are triable at the assizes and what at the quarter sessions are shown in the fourth column of Chap. II. of this Part, containing the tabular view of the offences. For the jurisdiction of the quarter sessions, see *post*, pp. 973, 974; and see *Note* 45, *ante*, p. 964, for observations hereon.

3 Witnesses called by the accused are also to be bound "to appear and give evidence at the said trial," and they may be committed in default (30 & 31 Vict. c. 35, ss. 3, 4, *ante*, pp. 958, 959).

11 & 12 Vict. c. 42. Sect. 20.

"at the opening of the said court on the first day of the sitting "thereof, or at such other time as the judge, recorder or justice who is to preside in such court at the said trial shall "order and appoint:—

Witnesses refusing to enter into recognizances may be committed.

"Provided always, that if any such *witness* shall refuse to "enter into or acknowledge such recognizance as aforesaid, it "shall be lawful for such justice or justices of the peace, by "his or their warrant (P. 1), to commit him to the common "gaol or house of correction for the county, riding, division, "liberty, city, borough or place in which the accused party is "to be tried, there to be imprisoned and safely kept until after "the trial of such accused party, unless in the meantime such "witness shall duly enter into such recognizance as aforesaid "before some one justice of the peace of the county, &c., in "which such gaol or house of correction shall be situate:—

If accused discharged, witness also to be discharged.

"Provided, nevertheless, that if afterwards, from want of "sufficient evidence in that behalf or other cause, the justice "or justices before whom such accused party shall have been "brought shall not commit him or hold him to bail for the "offence with which he is charged, 4 it shall be lawful for "such justice or justices, or any other justice or justices of "the same county, &c., by his or their order (P. 2) in that "behalf, to order and direct the keeper of such common gaol "or house of correction where such witness shall be so in custody to discharge him from the same, and such keeper shall "thereupon forthwith discharge him accordingly."

In the case of offences upon poor persons, under 24 & 25 Vict. c. 100, s. 26, the clerk or other officer of the union, or if not in a union one of the overseers, may, if the two justices taking the examinations deem it necessary and so certify, be bound over to prosecute (see *ante*, pp. 965, 966).

5 & 6 Vict. c. 38. Jurisdiction of the quarter sessions in indictable offences.

The jurisdiction of the quarter sessions to try offenders for indictable offences is principally to be gathered from the prohibition to try certain offences contained in the 5 & 6 Vict. c. 38; in some cases by express provisions in the statutes

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4 In ordinary cases witnesses are not called upon to enter into a recognizance to give evidence unless the accused has been previously committed or held to bail; but probably this proviso is intended to apply to cases under sect. 22, *ante*, pp. 961, 962, *Note* 42, where the accused is remanded to another county to complete the depositions, and those witnesses whose evidence is completed, having been required to appear on the trial, refused to enter into the necessary recognizance, and were committed to prison.

creating the offences; and in others by the common law.[5] These prohibited offences are consequently triable at the assizes only. Section 1 of that statute enacts,—"That . . . "neither the justices of the peace acting in and for any county, "riding, division or liberty, nor the recorder of any borough, "shall at any session of the peace, or at any adjournment "thereof, try any person for any treason, murder *or* capital "felony, *or* for any felony which when committed by a person "not previously convicted of felony is punishable by transportation beyond the seas [for which must now be read 'punishable with *penal servitude*,' 20 & 21 Vict. c. 3, ss. 2, 6] for life; "or for any of the following offences (that is to say),—

5 & 6 Vict. c. 38.

Sessions not to try certain offences.

1. Misprision of treason:
2. Offences against the Queen's title, prerogative, person, or government, *or* against either House of Parliament:
3. Offences subject to the penalties of præmunire:
4. Blasphemy, and offences against religion:
5. Administering *or* taking unlawful oaths:
6. Perjury and subornation of perjury:
7. Making *or* suborning any other person to make a false oath, affirmation *or* declaration, punishable as perjury *or* as a misdemeanor:
8. Forgery:
9. Unlawfully and maliciously setting fire to crops of corn, grain or pulse, *or* to any part of a wood, coppice or plantation of trees, *or* to any heath, gorse, furze or fern:
10. Bigamy, and offences against the laws relating to marriage:
11. Abduction of women and girls:
12. Endeavouring to conceal the birth of a child:
[13. Offences against any provisions of the laws relating to bankrupts and insolvents:] [6]
14. Composing, printing, *or* publishing blasphemous, seditious *or* defamatory libels:
15. Bribery:
16. Unlawful combinations and conspiracies,[7] except conspiracies or combinations to commit any offence which such justices or

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[5] They have also jurisdiction to try such offences as are within their powers, when committed on the high seas (see *Reg.* v. *Peel*, in *Note* 17, *ante*, p. 904).

[6] This paragraph has been repealed by "The Debtors Act, 1869," 32 & 33 Vict. c. 62, s. 20, and the quarter sessions have now jurisdiction over these offences.

[7] An indictment for conspiracy in the general form to obtain money by false pretences is within the jurisdiction of the quarter sessions. *Latham* v. *Reg.*, 9 Cox, C. C. 516; 10 Law T., N. S. 571.

5 & 6 Vict. c. 38.

recorder respectively have or has jurisdiction to try when committed by one person:

17. Stealing *or* fraudulently taking, *or* injuring *or* destroying, records *or* documents belonging to any court of law *or* equity *or* relating to any proceeding therein:

18. Stealing *or* fraudulently destroying, *or* concealing, wills or testamentary papers, *or* any document or written instrument being or containing evidence of the title to any real estate, *or* any interest in lands, tenements or hereditaments.

This enactment now applies to the justices in general or quarter sessions within the limits of the Central Criminal Court as established by the 4 & 5 Will. 4, c. 36, viz., the cities of London and Westminster, the liberty of the Tower of London, the borough of Southwark, and the counties of Middlesex, Essex, Kent and Surrey (see 14 & 15 Vict. c. 55, s. 13).

11 & 12 Vict. c. 42.

Binding over minors and married women.

Before the 11 & 12 Vict. c. 42, when any of the witnesses were minors or married women, it was usual to require the father or husband or other competent person to become bound for their appearance.8 This is still the practice in some districts, but in the City of London Justice Rooms, when no relative or husband, or other person is present, the witness's own recognizance is taken for his or her appearance, "on pain "of imprisonment."

FORMS.

[*Vide* O 1, 2, P 1, 2, Nos. 64—69, Oke's "*Formulist*," 6th ed. pp. 497—501.]

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8 *Vide Note* 1, *ante*, p. 971. There seems to be no power to call upon a witness to find sureties for his appearance, whether an infant or not, or a married woman; and indeed an infant may enter into a recognizance, for in *Ex parte Williams* (13 Price, 670), it was held that infancy was no ground for discharging a forfeited recognizance (15 J. P. 230). If surety is taken for a witness, the bail may at any time surrender him, if they think he will not attend (1 Hale's Sum. 96; 2 Hawk. P. C. c. 15, s. 3, pp. 138, 139, of 8th ed. by Curwood). The mode of proceeding will be the same, with slight alterations, as on surrender of the accused by his bail, *post*, p. 980. The witness may doubtless be committed for not entering into the recognizance, although he was not summoned to give evidence.

SECT. VII. BAILING ACCUSED AFTER EXAMINATION.

1. *On Inquiries before Justices.*
2. *On Removal of Indictments before Verdict.*

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1. *On Inquiries before Justices.*

Any one justice may take bail for any indictable offence (except treason) before or after committal.

One justice may take bail.

The power of a magistrate to accept or refuse bail, even in cases where the accused has a right to be bailed, is a judicial duty, and an action will not lie against him for refusing to take bail in such cases without proof of express malice, even though the sureties tendered are found by the jury to have been sufficient (*Linford* v. *Fitzroy*, 18 L. J. (N. S.) M. C. 108; 13 Q. B. 240).

The taking of bail a judicial duty.

A great deal of misapprehension seems of late to have existed on the subject of the cases in which justices were required to admit accused persons to bail; and it was generally supposed that a magistrate had a *discretion* as to bail in *all* felonies, and was *bound* to admit to bail in all misdemeanors. This is erroneous. As far as the duty of the magistrate is concerned (and the judges have of late been guided by the same considerations) the question is governed solely by the 11 & 12 Vict. c. 42, s. 23, which we have given *in extenso* at pp. 979, 980.

In what cases discretionary, in which compulsory.

In coming to a decision whether an accused should or should not be admitted to bail, it may be suggested that the only purpose of a committal to prison before trial being to "ensure the "appearance of the accused person at the time and place when "and where he is to be tried," justices in performing this important judicial duty should consider the circumstances of each case with this object only in view. This duty involves inquiry, in which discretion must be exercised, and in some cases of misdemeanor, discretion under circumstances of much nicety; and therefore no general rule can be laid down, which is to depend upon the facts of each case (see per *Denman*, C. J., in *Linford* v. *Fitzroy*, *supra*). Usually, however, it will be sufficient for the justices to look at the nature and magnitude of the charge, the position in life of the accused, the cogency of the evidence against him, and the probable severity of the punishment likely to follow a conviction; and if they then

Principles to guide justices in deciding as to accepting bail.

Principles to guide justices in deciding as to accepting bail.

consider that the probability is, that the accused would sooner that he and his bail should forfeit a sum of money than run the risk of trial and conviction and the sentence likely to follow, they should refuse bail, as it is the practice of the judges to do so in such cases. If the decision is to admit the accused to bail, it should be observed, that there should be *one* surety at the least, although on a remand the accused's own recognizance (if the justice consents to bail being given) is sufficient (see s. 21, *ante*, pp. 936, 937). The amount of the recognizance is in the justice's discretion entirely, and should depend upon the nature of the offence and the position of the parties. A magistrate, however, must not, in a case where he is bound by law to bail, require *excessive bail*, as, in effect, to amount to a denial of bail, as it is a misdemeanor to do so, for which an action will lie at the suit of the person wrongfully imprisoned, or an indictment may be preferred.1 For the purpose of determining the ability of the persons tendered (whose names the justice may require to be given to the prosecutor some time previously, say twenty-four or forty-eight hours2), the justice may administer to them an oath "to make "true answer to all such questions as may be demanded of "them," and asking them the usual questions as to their means, property and liabilities, whether or not they have been bankrupt or insolvent, or are surety for another; but the justice ought not to interfere in any way to dissuade them from becoming bound as bail (*Reg.* v. *Saunders*, 2 Cox, C. C. 249); nor can he legally inquire into the personal character or political opinions of the persons offered as bail, for his duty is confined to an inquiry into the sufficiency of their property to meet their recognizances (*R.* v. *Badger*, *supra*, *Note* 1). In a more recent case (*R.* v. *Broome*, 18 Law T. 19), before *Martin*, B., at chambers, that learned judge is reported to have stated his opinion to be, that if the justice is satisfied of the *solvency* of the persons tendered as bail, he is not justified in rejecting them on account of any alleged objections to their moral character, and from the fact of their being indemnified by the defendant. If either of the bail be not a

1 *Reg.* v. *Badger*, 12 L. J. (N. S.) M. C. 66; 4 Ad. & E. 468; *Reg.* v. *Tracey*, 15 L. J. (N. S.) M. C. 145.

2 The requirement may be added to the certificate of consent to bail, S 3, or S 4 in the schedule to 11 & 12 Vict. c. 42, as shown in Form No. 57, p. 494, Oke's "*Formulist*," 6th ed., indorsed on the warrant of commitment; Notice of bail, Id. p. 487, No. 78.

housekeeper, or appear not to be worth the sum for which he comes to be bail, both may be rejected; but if they both appear to be responsible persons and *housekeepers*, the recognizance is taken. Should the justice decline to take bail, the accused may apply to the High Court of Justice or to a judge at chambers, to be admitted to bail.

11 & 12 Vict. c. 42.

Sect. 23.

Examining magistrate may admit to bail in felonies and certain misdemeanors.

The 11 & 12 Vict. c. 42, s. 23, before referred to as governing the subject of bail, enacts,—"that where any person shall "appear or be brought before a justice of the peace charged "with any felony,

"Or with any assault with intent to commit a felony,—or "with any attempt to commit any felony,—or with obtaining "or attempting to obtain property by false pretences,—or "with a misdemeanor in receiving property stolen or obtained "by false pretences,—or with perjury or subornation of per-"jury;—or with concealing the birth of a child by secret "burying, or otherwise,—or with wilful or indecent exposure "of the person,—or with riot,—or with assault in pursuance "of a conspiracy to raise wages,—or assault upon a police "officer in the execution of his duty,—or upon any person "acting in his aid,—or with neglect or breach of duty as a "peace officer,—or with any *misdemeanor* for the prosecution "of which the costs may be allowed out of the county rate,[3]

"Such justice of the peace may, in his discretion, admit "such person to bail, upon his procuring and producing such "surety or sureties as in the opinion of such justice will be "sufficient to ensure the appearance of such accused person at "the time and place when and where he is to be tried for such "offence;—and thereupon such justice shall take the recogni-"zance (§ 1, 2) of the said accused person and his surety "or sureties, conditioned for the appearance of such accused "person at the time and place of trial, and that he will then "surrender and take his trial, and not depart the court without "leave;

Or after committal,

"And in all cases where a person charged with any in-"dictable offence shall be committed to prison to take his trial "for the same, it shall be lawful at any time afterwards, and "before the first day of the sitting or session at which he is to "be tried, or before the day to which such sitting or session

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[3] For which see 14 & 15 Vict. c. 55, ss. 1, 2, *post*, pp. 984, 985, which extend the provisions of the 7 Geo. 4, c. 64, to many other misdemeanors.

11 & 12 Vict. c. 42.
Sect. 23.

"may be adjourned, for the justice or justices of the peace "who shall have signed the warrant for his commitment in his "or their discretion to admit such accused person to bail in "manner as aforesaid;

to grant certificate of consent to bail,

"Or if such committing justice or justices shall be of opinion "that for any of the offences hereinbefore mentioned the said "accused person ought to be admitted to bail, he or they shall "in *such cases and in all other cases of misdemeanors* certify "(S 3) on the back of the warrant of commitment his or their "consent to such accused party being bailed, stating also the "amount of bail which ought to be required, it shall be lawful "for any justice of the peace attending or being at the gaol "or prison where such accused party shall be in custody, on "production of such certificate, to admit such accused person "to bail in manner aforesaid;

and bail taken at gaol.

"Or if it shall be inconvenient for the surety or sureties in "such a case to attend at such gaol or prison, to join with "such accused person in the recognizance of bail, then such "committing justice or justices may make a duplicate of such "certificate (S 4) as aforesaid, and upon the same being pro-"duced to any justice of the peace for the same county, riding, "division, liberty, city, borough or place, it shall be lawful "for such last-mentioned justice to take the recognizance of "the surety or sureties in conformity with such certificate, and "upon such recognizance being transmitted 4 to the keeper of "such gaol or prison, and produced, together with the certifi-"cate on the warrant of commitment as aforesaid, to any jus-"tice of the peace attending or being at such gaol or prison, "it shall be lawful for such last-mentioned justice thereupon "to take the recognizance of such accused party, and to order "him to be discharged out of custody as to that commitment, "as hereinafter mentioned;

Bail in other misdemeanors.

"And where any person shall be charged before any justice "of the peace with any indictable misdemeanor other than "those hereinbefore mentioned, such justice, after taking the "examinations in writing as aforesaid, instead of committing "him to prison for such offence, shall admit him to bail in "manner aforesaid,—or if he have been committed to prison,

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4 Instead of the parchment recognizance being transmitted, the warrant of deliverance (S 5) may be altered so as that it may be conditional on the accused entering into his own recognizance. *Vide* Form No. 75, p. 502, of Oke's "*Formulist*," 6th ed.

"and shall apply to any one of the visiting justices of such "prison, or to any other justice of the peace for the said "county, riding, division, liberty, city, borough or place, "before the first day of the sitting or session at which he "is to be tried, or before the day at which such sitting or "session may be adjourned, to be admitted to bail, such jus-"tice shall accordingly admit him to bail in manner afore-"said;

11 & 12 Vict. c. 42. Sect. 23.

"And in all cases where such accused person in custody "shall be admitted to bail by a justice of the peace other than "the committing justice or justices as aforesaid, such justice "of the peace so admitting him to bail shall forthwith trans-"mit the recognizance or recognizances of bail to the com-"mitting justice or justices or one of them, to be by him or "them transmitted, with the examinations, to the proper "officer;

"Provided nevertheless, that no justice or justices of the "peace shall admit any person to bail for treason, nor shall "such person be admitted to bail, except by order of one of "her Majesty's secretaries of state, or by her Majesty's Court "of Queen's Bench at Westminster, or a judge thereof in "vacation." 5

No bail to be taken in treason.

The above enactments may be thus analyzed:—

Analysis of enactments as to bailing.

1. It is *discretionary* with the committing magistrate at any time before the trial to admit to bail in any case of felony, and in the first specified misdemeanors; and to certify his consent to bail being taken by another justice:
2. In other misdemeanors than those specified he *must* take bail, if tendered and sufficient; and if the accused is committed he *must* certify his consent to bail:
3. If the accused committed, and the committing magistrate certify his consent, where such consent is optional (as in case 1), any justice of the same county, &c. may take the recognizances of the sureties, and a visiting justice to the gaol take those of the accused, and his sureties also, if convenient:
4. If the accused committed for any of the misdemeanors not specified (as in 2), a visiting justice of the prison,—or any justice of the same county, &c.,—may admit him to bail:
5. The committing justice, at any time after committal, may take

5 A proviso to this section contained the practice relative to traverses, where the defendant was entitled thereto, as well as a form of recognizance; but traverses were abolished by 14 & 15 Vict. c. 100, s. 27, and therefore that proviso has been omitted here.

11 & 12 Vict. c. 42.

bail for any offence either at the gaol, or the sureties for the accused elsewhere, and certify that fact, upon which the accused's recognizance may be taken by the visiting justice:

6. Justices are not to admit to bail for treason,—and under no circumstances do they upon a charge of murder:

7. There should be at least one surety, the accused's recognizance alone not being sufficient, as on a remand (*ante*, p. 937); but it is usual to require two sureties:

Amount of bail.

8. The amount of the recognizances is discretionary with the justices certifying, or (where not certified) with the justice taking the bail; but the recognizance of the accused himself is usually in a sum double that of one of the sureties.

[The cases in which it is discretionary to take bail, and where compulsory, are shown in the fifth column of Chapter II., *post*, under each offence.]

When bail taken after committal, warrant of deliverance to be lodged.

Sect. 24.

By sect. 24,—"In all cases where a justice or justices of the "peace shall admit to bail any person, who shall then be in "any prison, charged with the offence for which he shall be "so admitted to bail, such justice or justices shall send to or "cause to be lodged with the keeper of such prison a warrant "of deliverance (S 5) under his or their hand and seal or "hands and seals, requiring the said keeper to discharge the "person so admitted to bail, if he be detained for no other "offence;—and upon such warrant of deliverance being de-"livered to or lodged with such keeper, he shall forthwith "obey the same."

Surrender of accused by his bail.

It is laid down in 1 Hale's Sum. 96; also 2 Hawk. c. 15, s. 3, pp. 138, 139, 8th edit. by Curwood, that bail is a custody, and therefore the bail may retake the prisoner, if they doubt he will fly, and detain him, and bring him before a justice; and the justice ought to commit the prisoner in discharge of the bail, or put him to find new sureties;—or the bail may make a complaint before a justice, and obtain a warrant for the accused's apprehension; but this is not indispensably requisite, though it may prevent any breach of the peace.[6]

FORMS.

[*Vide* S 1, 2, 3, 4, 5, Nos. 71—76, Oke's "*Formulist*," 6th ed. pp. 501, 502.]

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6 *Vide* Forms of Complaint, Warrant and Commitment, Nos. 80—83, pp. 504, 505, Oke's "*Formulist*," 6th ed.

2. *On Removal of Indictments before Verdict.*

See statutes 5 & 6 Will. & M. c. 11, and 5 & 6 Will. 4, c. 33, s. 2; and 16 & 17 Vict. c. 30, ss. 4 to 8; and *Reg.* v. *Inhabitants of East Stoke*, 34 L. J. (N. S.) M. C. 190. See also 19 & 20 Vict. c. 16, *ante*, p. 969, as to the removal of prisoners for trial at the Central Criminal Court, and 25 & 26 Vict. c. 65, as to murders by soldiers of other soldiers.

SECT. VIII. COSTS ATTENDING THE PROSECUTION, &C.

1. *Costs of conveying Accused to Gaol.*
2. *Expenses incurred by Prosecutor and Witnesses.*

1. *Costs of conveying Accused to Gaol.*

11 & 12 Vict. c. 42. Costs of conveyance to gaol. Sect. 26.

The constable having delivered the prisoner, with the warrant, to the gaoler, 11 & 12 Vict. c. 42, s. 26, enacts,—that the gaoler, keeper or governor of the gaol or prison "shall "thereupon give such constable or other person so delivering "such prisoner into his custody a receipt (T 2) for such pri- "soner setting forth the state and condition in which such "prisoner was when he was delivered into the custody of "such gaoler, keeper or governor;—and in all cases where "such constable or other person shall be entitled[1] to his "costs or expenses for conveying such person to such prison "as aforesaid,—it shall be lawful for the justice or justices "who shall have committed the accused party, or for any "justice of the peace in and for the said county, riding, "division or other place of exclusive jurisdiction, wherein the "offence is alleged in the said warrant to have been com- "mitted,—to ascertain the sum which ought to be paid to "such constable or other person for conveying such prisoner "to such gaol or prison,[2] and also the sum which should

1 The constable, if a county police constable, would not be entitled to these costs if he be paid at a salary to include all his duties and expenses; nor would a justice grant the order where the prisoner was taken to the gaol in a state of drunkenness. Among police forces the regulations of the particular quarter sessions must be consulted and complied with in this respect.

2 These would be according to the scale of allowances settled by the sessions in the constable's county; under the 5 & 6 Vict. c. 109, s. 17, if a parochial constable.

11 & 12 Vict. c. 42.
Sect. 26.
Order on treasurer of county, &c.

"reasonably be allowed him for his expenses in returning,—"and thereupon such justice shall make an order (T 2) upon "the treasurer of such county, riding, division, liberty or "place of exclusive jurisdiction,—or if such place of exclusive "jurisdiction shall be contributory to the county rate of any "county, riding or division, then upon the treasurer of such "county, riding or division respectively,—or, in the county "of Middlesex, upon the overseers of the poor of the parish "or place within which the offence is alleged to have been "committed,—for payment to such constable, or other person "of the sums so ascertained to be payable to him in that "behalf; and the said treasurer or overseers, upon such order "being produced to him or them respectively, shall pay the "amount thereof to such constable or other person producing "the same, or to any person who shall present the same to "him or them for payment:

Money on prisoner may be applied toward expenses of his conveyance to gaol.

"Provided nevertheless, that if it shall appear to the justice or justices, by whom any such warrant of commitment "against such prisoner shall be granted as aforesaid, that "such prisoner hath money sufficient to pay the expenses, or "some part thereof, of conveying him to such gaol or prison, "it shall be lawful for such justice or justices, in his or their "discretion, to order such money or a sufficient part thereof "to be applied to such purpose." 3 *Vide* 3 Jac. 1, c. 10, s. 1, Vol. I., pp. 237, 238, which may still be made available for recovering these expenses by distress.

FORM.

[*Vide* T 2, No. 86, Oke's "*Formulist*," 6th ed. p. 507.]

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2. *Expenses incurred by Prosecutor and Witnesses.*

Prosecutor and witnesses' allowance, &c.

The allowance of the costs of prosecutors and witnesses in indictable offences is regulated principally by 7 Geo. 4, c. 64, and 14 & 15 Vict. c. 55, when the accused is committed or

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3 The gaoler should certify on the back of the receipt for the prisoner (Form No. 87, p. 508, Oke's "*Formulist*," 6th ed.) the amount of money found upon the prisoner at the time of his being received into his custody, and on the same being produced to any justice he can grant an order (No. 88, p. 508, Oke's "*Formulist*," 6th ed.) on the gaoler to pay the constable his expenses of conveying the prisoner to gaol.

held to bail to take his trial, and by 29 & 30 Vict. c. 52, when he is discharged. The expenses of the witnesses called by the accused before the examining magistrate before his committal are allowed under 30 & 31 Vict. c. 35, s. 5, *post*, p. 985.

First: as to the cases in which the accused is committed or held to bail. The 7 Geo. 4, c. 64, s. 22, empowers the court before which any person is prosecuted or tried for any felony, and at the request of the prosecutor or of any other person appearing on recognizance or subpœna, to allow the whole of the costs of the prosecution, *i. e.* the costs and expenses incurred by the prosecutor in preferring the indictment, and to him and his witnesses their expenses in attending before the examining magistrate and the grand jury, and in otherwise carrying on the prosecution, and compensation for their trouble and loss of time therein (see *Reg.* v. *Cook*, 1 F. & F. 389, Bramwell, B.); and the same, although no bill be preferred (for the offence of which the accused is convicted), if the persons shall have attended *bonâ fide* in obedience to a recognizance or subpœna (see *Reg.* v. *Yates*, 7 Cox's C. C. 361). The expenses of attending before the examining magistrate are to be ascertained by the certificate of such magistrate, [4] granted before the trial or attendance in court, if he shall think fit to grant the same; and the amount of all the other expenses and compensation is to be ascertained by the proper officer of the court, subject to the regulations established by the quarter sessions under sect. 26. But this latter section was repealed by 14 & 15 Vict. c. 55, s. 4, and by sect. 5, the home secretary of state is authorized to make these regulations as to the rates or scales of payment according to which such certificates or orders may be granted, &c.; [5] but these certificates are not conclusive as to the amount to be allowed, which is to be ascertained by the proper officer of the court according to such regulations (sect. 6). By 7 Geo. 4, c. 64, s. 23, the like costs were allowed (except those of attending before the examining magistrates)

1st. *Where accused committed for trial.*

7 Geo. 4, c. 64.

14 & 15 Vict. c. 55, ss. 4, 5.

In certain misdemeanors.

7 Geo. 4, c. 64, s. 23.

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4 *Vide* Form of Certificate, Oke's "*Formulist*," 6th ed. No. 89, p. 509, of which a like one has been issued by the Home Secretary.

5 Regulations under this enactment, containing in many instances very inadequate allowances, were made by the Home Secretary in February, 1858, and amended in some respects by other regulations made in February, 1863, and are set out *in extenso* at pp. 993—1000.

in the following *misdemeanors* to persons attending upon recognizance or subpœna to prosecute or give evidence:—

Assault with intent to commit felony; attempt to commit felony; riot; misdemeanor for receiving stolen property knowing the same to have been stolen; assault upon a peace officer in the execution of his duty, or upon any person acting in aid of such officer; neglect or breach of duty as a peace officer; assault committed in pursuance of any conspiracy to raise the rate of wages; knowingly and designedly obtaining any property by false pretences; wilful and indecent exposure of the person; wilful and corrupt perjury; and subornation of perjury.

14 & 15 Vict. c. 55, s. 1.

But by 14 & 15 Vict. c. 55, s. 1, the exception of the expenses of attendance before the examining magistrate has been repealed; and by sect. 2 that section (7 Geo. 4, c. 64, s. 23), as amended by this act, is to extend and be applicable to certain other misdemeanors, viz.,

Unlawfully and carnally knowing and abusing any girl above the age of ten years and under the age of twelve years [now, "above the age of twelve years and under the age of thirteen "years," 38 & 39 Vict. c. 94, s. 4]; unlawfully taking or causing to be taken any unmarried girl being under the age of sixteen out of the possession and against the will of her father or mother, or of any other person having the lawful care or charge of her; conspiring to charge any person with any felony; or to indict any person of any felony; conspiring to commit any felony.

For common assaults. 14 & 15 Vict. c. 55, s. 3.

As respects common assaults, by 14 & 15 Vict. c. 55, s. 3, it is provided, that, where justices, acting under 9 Geo. 4, c. 31, s. 29 [now, 24 & 25 Vict. c. 100, s. 46, in *Note* **28**, Vol. I., p. 304], bind parties by recognizance to prosecute or give evidence on bills of indictment for common assaults, costs as in cases of felony may be allowed at the discretion of the court; but this excludes witnesses *subpœnaed* to give evidence.

Result of provisions.

The result of the several enactments is that the *whole* costs are allowed in *all* felonies, and the *whole*, or none, in the specified misdemeanors when the accused is committed or held to bail. There are, however, other misdemeanors in which the *whole* costs are allowed as in felonies, as under the Criminal Law Acts of 1861, 24 & 25 Vict. c. 96, s. 121; 24 & 25 Vict. c. 97, s. 77; 24 & 25 Vict. c. 98, s. 54; 24 & 25 Vict. c. 99,

s. 42; 24 & 25 Vict. c. 100, s. 77 (which indeed apply also to some of the above-mentioned misdemeanors), all which, with the result of the above provisions in relation to each offence, will be seen in the 7th column of Chap. II., *post*.

Order for payment of costs.

The order for payment of the costs allowed by the court is to be made out, at the assizes by the clerk of assize, and at the sessions by the clerk of the peace, upon the treasurer of the county, riding, or division (7 Geo. 4, c. 64, s. 24), or the treasurer, overseer, or other officer of liberties, &c., not contributing to the county rate (sect. 25), in which the offence was committed. Since 1846, the sums paid have been repaid by the public treasury on an annual grant voted by parliament and inserted in the Appropriation Act.

7 Geo. 4, c. 64, ss. 24, 25.

If witnesses for accused, bound by recognizance, appear at the trial, court may allow expenses.

30 & 31 Vict. c. 35.

Sect. 5.

The Criminal Law Amendment Act, 1867, 30 & 31 Vict. c. 35 (mentioned *ante*, p. 958), s. 5, provides for the expenses of the witnesses called by the accused being allowed as part of the costs of the prosecution: it enacts, "The court before "which any accused person shall be prosecuted or tried, or "for trial, before which he may be committed or bailed to "appear for any felony or misdemeanor, is hereby authorized "and empowered, in its discretion, at the request of any "person who shall appear before such court on recognizance "to give evidence on behalf of the person accused, to order "payment unto such witness so appearing such sum of money "as to the court shall seem reasonable and sufficient to com-"pensate such witness for the expenses, trouble, and loss of "time he shall have incurred or sustained in attending before "the examining magistrate, and at or before such court;—6 "and the amount of such expenses of attending before the "examining magistrate, and compensation for trouble and "loss of time therein, shall be ascertained by the certificate "of such magistrate, granted before the attendance in court; "—and the amount of all other expenses and compensation "shall be ascertained by the proper officer of the court, who "shall, upon receipt of the sum of sixpence for each witness, "make out and deliver to the person entitled thereto an order "for such expenses and compensation, together with the said "fee of sixpence 7 upon such and the same treasurers and

6 The allowance may be made in the same certificate in which the allowance to the prosecutor and his witnesses are inserted. Form, Oke's "*Formulist*," 6th ed. p. 509. No. 89.

7 By "The Clerks of Assize, &c. Act, 1869," 32 & 33 Vict. c. 89, this

30 & 31 Vict. c. 35. Sect. 5.

"officers as would now by law be liable to payment of an "order for the expenses of the prosecutor or witnesses against "such accused person;—and if the accusation be of such a "kind that the court shall have no power to order the ex-"penses of the prosecutor, then upon the treasurer or other "officer in the capacity of a treasurer of the county, riding, "division, city, borough or place, where the offence of such "accused person may be alleged to have been committed, "which treasurer or other officer is hereby required to pay "the same orders upon sight thereof, and shall be allowed "the same in his accounts:—Provided always, that in no "case shall any such allowances or compensation exceed the "amount now by law permitted to be made to prosecutors "and witnesses for the prosecution;—and provided always, "that such allowances and compensation shall be allowed "and paid as part of the expenses of the prosecution."

2nd. *Cases in which accused is discharged.* 29 & 30 Vict. c. 52.

Secondly: as to cases in which the accused is discharged by the justices on the preliminary examination. The 29 & 30 Vict. c. 52 (passed originally for the period of three years, and to the end of the then next session of parliament, but continued by 38 & 39 Vict. c. 72, till 31st December, 1876, "and end of "then next session"), after reciting that by the act 7 Geo. 4, c. 64, certain provisions were made relating to the allowance of costs, expenses, and compensation to prosecutors and witnesses in cases of prosecutions for felonies and certain misdemeanors therein mentioned, and by the act 14 & 15 Vict.

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32 & 33 Vict. c. 89, s. 10.

section as to fees has been amended:—Sect. 10. "Where the officer of the court who, in pursuance of section five of 'The Criminal Law Amendment Act, 1867' [*i. e.* the 30 & 31 Vict. c. 35, which by sect. 9 is to be cited as 'The Criminal Law Amendment Act, 1867'], makes out an order for the payment of expenses and compensation to witnesses is paid by salary, or is for the time being allowed under the table of fees relating to his office to take one fee only of fixed amount in respect of his several duties relating to the prosecution of an offender, such officer shall make out and deliver such order without taking any fee for the same,—and the said section shall be construed as if all mention of the sum or fee of sixpence were omitted therefrom." Sect. 11. "Where the fee of sixpence is, in pursuance of section five of 'The Criminal Law Amendment Act, 1867,' as amended by this act, taken by a clerk of the peace or other officer, the amount of such fees received by him during any year after the passing of this act shall be included in the total amount of fees in criminal prosecutions received by him, which is to be ascertained under section eighteen of the act of the session of the eighteenth and nineteenth years of the reign of her present Majesty, chapter one hundred and twenty-six, 'for diminishing expense and delay in the administration of criminal justice in certain cases,' and shall be included in every return or account of fees made or rendered by such clerk of the peace or other officer."

c. 55, the provisions of the said act are extended, and authority is given to one of her Majesty's secretaries of state to regulate the scale of payment to be allowed or ordered under the said act or any other act as to the rates or scales of payment according to which certificates may be granted by the examining magistrate or magistrates in respect of the expense of any prosecutor or witnesses attending before such magistrate or magistrates; and reciting that "it is expedient "to extend the law relating to expenses in cases of prosecutions to the payment of expenses incurred in attending "before an examining magistrate or magistrates, and to "compensation for trouble and loss of time therein, on any "charge of felony *bonâ fide* made, and on any case of the "several classes of misdemeanor enumerated in section "twenty-three of the said act of king George the fourth, "or of section two of the said act of her Majesty, *bonâ fide* "preferred, although the parties may not be bound over "by recognizance or subpœna to prosecute or give evidence, "and although no committal for trial may take place:" enacts (sect. 1),—"It shall and may be lawful for any magis- "trate or magistrates, at his or their discretion, and he or they "is and are hereby authorized and empowered, at the request "of any prosecutor or other person who shall have appeared "before such magistrate or magistrates, either by summons or "otherwise, on a charge of felony, *bonâ fide* made upon rea- "sonable and probable cause,—or on a charge in any case of "the several misdemeanors enumerated in section twenty-three "of the said act of King George the fourth, and of section two "of the said act of her Majesty, *bonâ fide* preferred,—and "who shall have been examined on such charge of felony and "misdemeanor, to grant a certificate of the expenses and of "the amount to be allowed for trouble and loss of time to the "witnesses so appearing and examined on such charge of "felony or misdemeanor, in the same manner and to the same "or like extent as magistrates are authorized by law to do in "cases of felony and in cases of misdemeanor enumerated in "the said acts, where a committal for trial takes places or the "parties are bound over by recognizance or subpœna to pro- "secute and give evidence;—and it shall also be lawful for "such examining magistrate or magistrates to allow to the "clerk of the magistrates acting for the petty sessional division

29 & 30 Vict. c. 52.

Powers of examining magistrate to grant certificate of expenses to witnesses extended, and petty session clerks to be entitled to fees on depositions.

Sect. 1.

29 & 30 Vict. c. 52.

"or district (except where such clerk is paid by salary in lieu "of fees) the same fees on taking the depositions on such "charge or charges as would be allowed to him, or he would "be entitled to at law, in the event of a committal for trial "taking place, and to include such allowance of fees in the "certificate." 8

Magistrates signing, &c. certificates, to forward same to clerks of the peace, to be laid before Court of Quarter Sessions, which may allow amount wholly or partially, and make orders for payment.

Sect. 2.

Sect. 2. "Every examining magistrate signing or granting "such certificate shall forward the same to the clerk of the "peace of the county, riding, division, city, or borough within "which such petty sessional division or district is situate, to "be laid by him before the next quarter sessions of the peace "for such county, riding, division, city, or borough;—and "such court shall be at liberty to allow the amount or so "much of the amount named in the certificate, on the same "being certified by the proper officer of the court of quarter "sessions as correct, in accordance with the scale of payment "fixed or to be from time to time fixed under section five of "the act of her Majesty before referred to, and thereupon to "sign an order for payment on the treasurer or other officer "of the county, riding, or division, or city, liberty, or fran-"chise, in which the offence shall have been committed or "supposed to have been committed, in the same manner as an "order for payment would have been made in case the parties "had been bound over to prosecute, and an indictment had "been preferred,—and such treasurer or other officer shall "pay the amount of such order to the person or persons "named therein."

Reward to persons apprehending certain offenders.

7 Geo. 4, c. 64, s. 28.

As the 22nd section of 7 Geo. 4, c. 64, does not apply to the costs attending the apprehension of the prisoner, unless the words "and in otherwise carrying on the prosecution" will apply where the prosecutor has paid the constable (which, however, the examiners of criminal law accounts say does not so apply), by sect. 28 the Court of Assize may order the sheriff of the county in which the offence shall have been committed

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8 *Vide* adapted Form of Certificate, No. 89, p. 509, Oke's "*Formulist*," 6th ed. Of course, no certificate or allowance should be made for the expenses of a prosecution in which no committal takes place in any case in which a certificate of dismissal and an order of payment on the county treasurer for costs of the prosecution might have been granted under the repealed Criminal Justice Act (18 & 19 Vict. c. 126), s. 14, or in any case in which a party is charged under the repealed Juvenile Offenders Acts (10 & 11 Vict. c. 82, and 13 & 14 Vict. c. 37).

to pay to any person who shall appear to have been active in or towards the apprehension of any person charged with—

Murder; feloniously and maliciously shooting at or attempting to discharge any kind of loaded fire-arms at any other person; stabbing, cutting or poisoning, or administering anything to procure the miscarriage of any woman; rape; burglary; felonious house-breaking; robbery on the person; arson; horse, bullock or sheep stealing; being accessory before the fact to any of the above offences; or receiving stolen property knowing the same to have been stolen,—

such sum as they shall deem sufficient to compensate him for his expenses, exertions and loss of time, in addition to his allowance as a prosecutor or witness;—[9] and the court of quarter sessions may make the like order in favour of persons active in the apprehension of persons charged with receiving stolen property, knowing the same to have been stolen. The sheriff is to be repaid by the treasury (s. 29). By sect. 30 allowance may be made by the assizes or quarter sessions to the widow, child or parent of a person killed in endeavouring to apprehend the offenders mentioned in the sect. 28, *supra*, which are to be paid by and repaid to the sheriff as in the cases just mentioned. Sects. 29, 30.

REGULATIONS *of the Home Secretary as to Allowances to Prosecutors and Witnesses.*

The home secretary, pursuant to 14 & 15 Vict. c. 55, s. 5, *ante*, p. 981, made certain regulations on the 9th February, 1858, containing the allowances to prosecutors and witnesses, which were altered in certain particulars by regulations dated 14th February, 1863. These regulations as now in force are as follows, the alterations being introduced into the proper places in the first regulations:— 14 & 15 Vict. c. 55.

"Whereas it is expedient to make regulations as to the rates and scales of payment according to which costs, expenses and compensations shall be allowed and ordered to be paid under the act of the seventh year of the reign of King George the Fourth, c. 64, and divers other acts of parliament authorizing such payments to prose-

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[9] By 14 & 15 Vict. c. 55, s. 8, the power in sect. 28, *supra*, is extended to courts of quarter sessions of the peace (with respect, of course, to such of the offences as they have power to try), but their order to any one person cannot exceed the sum of 5*l*.

Regulations of Home Secretary.

cutors and witnesses, and to persons attending courts in obedience to recognizances or subpœnas in the cases of criminal prosecutions, for their travelling expenses and trouble and loss of time incurred in attending such courts, and also to make regulations as to the rates and scales of payment according to which certificates may be granted by the examining magistrate or magistrates in respect of the travelling expenses of prosecutors, and witnesses for the prosecution and other persons, of attending before such magistrate or magistrates, and of compensation for trouble and loss of time therein in the cases aforesaid: And whereas to the end aforesaid, it has become necessary to revoke divers regulations made under the 26th section of the said act hereinbefore recited: Now I, the Right Honourable Sir George Grey, acting under and in pursuance of a certain act of parliament made and passed in a session of parliament holden in the 14th and 15th years of the reign of her present Majesty, intituled 'An Act to amend the Law relating to the Expenses of Prosecutions, and to make further Provision for the Apprehension and Trial of Offenders in certain Cases,' do revoke, annul and make void, all rules and regulations made under the said 26th section of the said act, whereby any costs, expenses and compensation may be allowed or ordered to be paid to such prosecutors and witnesses, or other persons attending on recognizance or subpœna, for their travelling expense, trouble and loss of time in attending before such courts or before such examining magistrate or magistrates, to a larger or greater amount than the allowances hereinafter authorized to be made in that behalf: and I do make, constitute and appoint the following rules and regulations to be observed by all courts and magistrates, and the officers and clerks of such courts and magistrates, and by all others whom it may concern, as to the rates and scales of payment of such costs, expenses and compensation; and I do direct that the same shall take effect and be in force in all places where the same may be capable of taking effect, that is to say—

1stly—SCALES OF PAYMENT TO WITNESSES FOR ATTENDING EXAMINING MAGISTRATES.

"1. I do make, constitute and appoint the following rules and regulations as to the rates and scales of payment according to which such certificates may be granted, by such examining magistrate or magistrates, in respect of the travelling expenses of prosecutors and witnesses for the prosecution, of attending before such magistrate or magistrates, and of compensation for their trouble and loss of time therein in the cases aforesaid, namely:—

£ s. d.

Legal or medical men.

"There may be allowed to prosecutors or witnesses being members of the profession of the law, or of medicine, if resident in the city, borough, parish, town or place where the examination is taken, or within a distance not exceeding two miles from such place, for their loss of time and trouble in attending to give profes-

	£	s.	d.	Regulations of Home Secretary.
sional evidence on such examination, but not otherwise, a sum, in the discretion of the magistrate or magistrates, for each attendance not to exceed . .	0	10	6	
"If such prosecutor or witness shall reside elsewhere, then a sum for the same not to exceed	1	1	0	
"And for mileage, a sum not to exceed 3*d.* per mile each way.				Mileage.
"To prosecutors and witnesses being constables attending the bench of magistrates, where such examination is taken on any police duty, and to constables paid by salary, and attending from a distance not exceeding three miles, there shall be allowed . . .	Nil.			*Constables:* Constables on duty in the case for attendance.
"Unless the magistrate or magistrates shall certify that there were special reasons for making an allowance, and shall specify such reasons upon his or their certificate, and then a sum not to exceed for each day .	0	1	0	
"To prosecutors and witnesses being constables paid by salary, and not attending the magistrate or bench of magistrates on any police duty, for their trouble in attending such examination, from a distance greater than three miles, and not exceeding seven miles from the place where the examination is taken, a sum not to exceed for each day	0	1	0	Constables not on duty in the case for attendance.
"To the same if attending from a distance greater than seven miles from the place where the examination is taken, a sum not to exceed for each day	0	1	6	
"To prosecutors and witnesses being constables paid by salary, if necessarily detained all night for the purposes of the examination, a sum for the night, not to exceed	0	2	0	Night.
"(The said allowances to prosecutors and witnesses being constables paid by salary, are to be conditional, upon the same being applicable for their personal benefit.)				
"To prosecutors and witnesses being constables necessarily travelling to the place of examination in discharge of any police duty, there shall be allowed for mileage	Nil.			Mileage, when on duty in the case.
"(Unless the examining magistrate or magistrates shall certify that there were special reasons for making an allowance, and shall specify the same upon their certificate, and then the same as other constables.)				
"To prosecutors and witnesses being constables not attending the place of examination in discharge of a				Mileage when not on duty in the

Regulations of Home Secretary.

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police duty, and entitled to be conveyed under 7 & 8 Vict. c. 85, s. 12, and able to travel by railway, there shall be allowed mileage as follows:—

case, and able to travel by railway.

"To superintendents, inspectors, serjeants and constables, the lowest amount per mile authorized by act of parliament for their conveyance, and no larger sum;

"To prosecutors and witnesses being constables able but not so entitled to travel, and not attending the place of examination on any police duty, there shall be allowed for mileage, railway fare, the same as to ordinary witnesses;

"To prosecutors and witnesses being constables not able to travel by railway, and not attending the magistrate or magistrates on any police duty, for every mile beyond four miles each way they shall travel to reach the place of examination, a sum not to exceed each way, 2*d.*;

"To prosecutors and witnesses being constables, able partially to travel by railway, for every mile after the first four miles each way, in reaching such means of conveyance, a sum not to exceed 2*d.*, and railway fare as other constables.

Witnesses in general.

"To prosecutors and witnesses not hereinbefore provided for, resident in the city, borough, parish, town or place where the examination is taken, or within a distance not exceeding two miles from such place, for their trouble and loss of time in so attending there shall be allowed a sum for each day not to exceed 0 1 0

"If resident elsewhere and beyond the distance of two miles, *or* if such prosecutors or witnesses shall be necessarily detained from home, for the purpose of the examination, more than four hours, a sum at the like discretion, not to exceed 0 1 6

"If they shall be necessarily detained from home more than six hours, then a sum, at the like discretion, not to exceed 0 2 6

Night.

"When he or they shall reside at such a distance from the place of examination as to render it necessary that he or they shall sleep from home, then at the like discretion, a sum for the night, not to exceed . . 0 2 6

	£	s.	d.	
"There may be allowed for mileage, as follows:— "If the prosecutor or witness reside at a greater distance than two miles from the place of examination, and the whole or any portion of the journey can be performed by railway, second class fare for such whole or portion of the journey, as the case may be; and for a journey, or part of a journey, performed otherwise than by railway, a sum not to exceed per mile each way	0	0	3	Regulations of Home Secretary. Mileage.

"2. In pursuance of the power in me vested, I do make the following rules and regulations as to the rates and scales of payment of costs, expenses and compensations to be allowed or ordered to be paid, under the said act of the seventh year of the reign of King George the Fourth, and other the acts of parliament aforesaid, to prosecutors and witnesses attending courts of assize, oyer and terminer, gaol delivery, general session of the peace, or any other courts having power to allow such costs, expenses, and compensation to prosecutors and witnesses, and persons attending such courts, in obedience to any recognizance or subpœna in cases of criminal prosecutions, for their trouble, loss of time, and travelling expenses in so attending. *2ndly*— SCALES OF PAYMENT TO WITNESSES FOR ATTENDING ASSIZES OR SESSIONS.

"For the purposes aforesaid I do make, constitute and appoint the following rules and regulations (that is to say), there may be allowed:—

	£	s.	d.	
"To prosecutors and witnesses being members of the profession of the law or of medicine, attending to give professional evidence, but not otherwise, for their trouble, expenses and loss of time, for each day they shall necessarily attend the court to give professional evidence, a sum not to exceed	1	1	0	*Legal or medical men.*
"For each night the same as ordinary witnesses, and for mileage a sum not to exceed, per mile each way .	0	0	3	
"To prosecutors and witnesses, being constables and paid by salary, if resident in the city, borough, town or place where such court is held, or within a distance not exceeding two miles of such place, a sum, in the discretion of the court, not to exceed, for each day .	0	1	0	*Constables:* Resident.
"If resident elsewhere, and if they shall attend from a greater distance than two miles, a sum, in the discretion of the court, for each day not to exceed. .	0	1	6	Non-resident.
"To the same if they shall be necessarily detained all night for the purposes of the prosecution, a further sum for the night not to exceed—				Night.
"[Altered Regulations, 14th February, 1863] at assizes.	0	2	6	
"[Altered Regulations, 14th February, 1863] at sessions	0	2	0	

		£	s
Regulations of Home Secretary.	"If such prosecutors and witnesses shall be chief constables or superintendents attending from a distance greater than three miles, and they shall be necessarily detained all night for the purposes of the prosecution, instead of the foregoing allowances, there may be allowed to them the same as ordinary witnesses. "(The said allowances to prosecutors and witnesses, being constables paid by salary, are to be conditional on the same being applicable to their personal benefit.)		
Mileage, when able to travel by railway or not.	"To prosecutors and witnesses, being constables who shall be entitled to be conveyed under the 7 & 8 Vict. c. 85, s. 12, and able to travel by railway, there may be allowed for mileage as follows:— "To superintendents, inspectors, serjeants and police constables, the lowest amount per mile authorized by act of parliament for their conveyance, and no larger sum; "To prosecutors and witnesses, being constables not so entitled to travel, there may be allowed railway fare the same as to ordinary witnesses; "To the same if paid by salary, and where they are not able to travel by railway, for every mile beyond four miles each way they shall travel to and return from the court where the prosecution takes place, a sum not to exceed 2*d.*; "To the same if paid by salary, when able partially to travel by railway, for every mile after the first four miles each way in reaching such means of conveyance, a sum not to exceed 2*d.*, and railway fare as other constables.		
Witnesses in general.	"To prosecutors and witnesses not hereinbefore provided for, there may be allowed, for their expenses, trouble, and loss of time in attending the court where the prosecution takes place, per day, a sum not to exceed .	0	3
Night at assizes.	"To the same, if entitled to mileage, for each night they may be necessarily detained from home for the purposes of the prosecution at any assizes, session of gaol delivery, or session of oyer and terminer, a sum not to exceed	0	2 6
Night at sessions.	"To the same for each night they may necessarily be detained from home for the purposes of the prosecution at a session of the peace	0	2 0

"To the same for mileage there may be allowed as follows:— £ s. d.

Regulations of Home Secretary.

"If resident more than two miles from the court where the prosecution takes place, if the whole or any portion of the journey can be performed by railway, second class fare for such whole or portion of the journey, as the case may be, and for a journey or part of a journey performed otherwise than by railway, per mile, each way, a sum not to exceed . . . 0 0 3

Mileage.

How mileage calculated.

"In computing the amount to be allowed for mileage, under any of the regulations herein contained, I do direct that no greater allowance be made than at the rate of 3*d.* per mile each way by the nearest available route.

"I also direct that no prosecutor or witness allowed for mileage under any of the regulations herein contained shall be allowed for loss of time occasioned by his or her omission to avail himself or herself of a public conveyance, if available.

Allowance only in one case.

"I further direct that no prosecutor or witness be allowed under any of the regulations aforesaid for his attendance, loss of time, trouble or expenses, in more than one case on the same day.

"I further direct that no constable paid by salary be allowed for railway fare not actually paid.

"*Exceptions.*

Allowance to officers of gaol.

"I do authorize payment to a governor of a gaol attending to prove a former conviction in any court not being within the county, riding, town, borough or other jurisdiction in which the gaol of which he is a governor is situate, a sum for each day not to exceed 7*s.* And when such governor shall be detained all night for such purpose, he shall receive, in addition for the night's detention, the same allowance as other witnesses. [Altered Regulations, 14th February, 1863.]

"When the attendance of any other officer of the gaol is required for such purpose in any court, not being within the county, riding, town, borough, or other jurisdiction, in which the gaol of which he is such officer is situate, I do authorize the payment to him of a sum not to exceed 3*s.* 6*d.* per day, and if detained all night, the same sum in addition as that allowed to other witnesses. [Altered Regulations, 14th February, 1863.]

"I do authorize payment to the officer of a gaol, whose duties require his attendance in the court where the prosecution takes place, for giving evidence of a former conviction, a sum not to exceed 3*s.* 6*d.* [Altered Regulations, 14th February, 1863.]

Prisoners brought by

"I do make the following regulations as to the compensation to

Regulations of Home Secretary.

be allowed in the cases of prisoners brought by writ of habeas corpus, or other lawful process, to give evidence for the prosecution.

habeas to give evidence.

"To governors and officers of gaols, in whose custody the prisoner is brought, as follows:—

	£	s.	d.
"To a governor, for his loss of time, trouble, and expenses, in bringing up such prisoner, for each day he may attend, the sum of	0	12	0
"To other officers, for the same, the sum of . . .	0	6	0
"And for mileage, a sum, in the discretion of the court, not to exceed per mile each way	0	1	0

"Provided always, that the above allowances shall not be made to any gaoler or officer charged with the custody of prisoners for trial, at the place where such prisoner shall be required to give evidence in respect of the time such gaoler or officer shall, by virtue of his office, be required to be there present.

Attorneys for prosecution giving evidence.

"I authorize the following payments to be made to attorneys for the prosecution, giving evidence, over and above the allowances so made to them as attorneys:—

	£	s.	d.
"Such attorneys may be allowed a sum, not exceeding .	0	6	8

"If, in the opinion of the proper officer of the court, such evidence was necessary, and saved the attendance of another witness.

Scientific witnesses.

"And whereas it may become necessary in certain cases that persons, unacquainted with the facts to be given in evidence upon the prosecution, may be required to attend as witnesses, in order to state their opinion on matters as to which such opinion is admissible in evidence; and it is reasonable in such cases that the foregoing rates of allowance should be departed from, I hereby direct that the allowances to be made to such persons shall be subject to the decision of the court before whom such persons may be examined, which may direct such allowances as to such court may appear reasonable. [Altered Regulations, 14th February, 1863.]

Interpreters.

"Whenever an interpreter shall be employed to interpret on the part of the prosecution, it shall be competent for the court before whom such interpreter shall be so employed to make him such allowances as to such court shall seem reasonable: Provided always, that this regulation is not to interfere with any regulations in force (where such now exist) for the remuneration of interpreters.

Witnesses unable to travel by ordinary mode.

"In case of the illness or inability of any prosecutor or witness to travel without some special means of conveyance, it shall be lawful for the court to depart from the foregoing rates of allowances, and to make such other allowances as the justice of the case shall require.

Reasons for exceptions to be mentioned in magis-

"Under the circumstances herein specified under the head of exceptions, I authorize a departure from the rules and regulations herein contained, as well by the examining magistrate or magis-

trates as by the courts herein mentioned, except only in the case of an attorney for the prosecution giving evidence: Provided always, that whenever any allowances, hereinbefore authorized under the head of exceptions, shall have been made, the circumstances under which the general rate of allowances shall be departed from shall in all cases be fully specified by the proper officer of the court or magistrate upon the document by which such allowances shall be authorized: And lastly, I do order that, notwithstanding anything herein contained, all lawful rules and regulations heretofore made and in force, under or by reason whereof allowances to a less amount than those hereby authorized are now payable in the cases hereinbefore provided for, shall be and remain in as full force and effect as if this order had not been made, and shall continue to apply to the persons and the circumstances thereby provided for, although such persons and circumstances may be comprehended within the terms hereof, and that the said rules and regulations shall so far remain unaffected by this order, and that nothing herein contained shall have the effect of increasing the amount of any rates or allowances which may be lawfully made under such rules and regulations; it being the true intent and meaning hereof that such rules and regulations shall be and remain unaltered, further or otherwise than in the reduction of allowances to prosecutors and witnesses where the rates thereof shall be in excess of those herein contained.

Regulations of Home Secretary.

trate's certificate, or order of court.

Rules for allowing a less amount not to be affected.

"Given under my hand at Whitehall, the ninth day of February, one thousand eight hundred and fifty-eight.

"(Signed) G. GREY."

FORMS.

[*Vide* Examining Magistrate's Certificate of Expenses, and Order of Court for Expenses of Prosecution, Oke's "*Formulist*," 6th ed. Nos. 89, 90, pp. 509, 510.]

CHILDREN, YOUNG PERSONS, AND ADULTS.

The Summary Jurisdiction Act, 1879 (42 & 43 Vict. c. 49), has conferred upon justices very extensive powers of dealing summarily in certain cases, not only with children and young persons, but with adults charged before them with having committed indictable offences. This subject, however, having been fully treated in the first volume, pp. 200—209, need be no further considered.

THE PROSECUTION OF OFFENCES ACT.

By the 42 & 43 Vict. c. 22 ("*An Act for more effectually providing for the Prosecution of Offences in England, and for other purposes*") the legislature has established a limited description of public prosecutions, the provisions of which, and the rules framed thereunder, it will be necessary the justices, when dealing with indictable offences, should bear in mind. As the statute and rules are not voluminous, we give them entire.

Short title.

"1. This act may be cited as the Prosecution of Offences "Act, 1879.

Appointment and duty of director of public prosecutions.

"2. A secretary of state may from time to time appoint an "officer to be called the director of public prosecutions, with "such salary, not exceeding two thousand pounds per annum, "as he may, with the consent of the Treasury, fix.

"It shall be the duty of the director of public prosecutions, "under the superintendence of the attorney general, to insti- "tute, undertake or carry on such criminal proceedings "(whether in the Court for Crown Cases Reserved, before "sessions of oyer and terminer or of the peace, before magis- "trates, or otherwise), and to give such advice and assistance "to chief officers of police, clerks to justices, and other per- "sons, whether officers or not, concerned in any criminal "proceeding respecting the conduct of that proceeding, as "may be for the time being prescribed by regulations under "this act, or may be directed in a special case by the attorney "general.

"The regulations under this act shall provide for the di- "rector of public prosecutions taking action in cases which "appear to be of importance or difficulty, or in which special "circumstances, or the refusal or failure of a person to pro- "ceed with a prosecution, appear to render the action of such "director necessary to secure the due prosecution of an of- "fender, and shall also fix the areas or districts for which "the assistants of such director shall respectively be appointed "and act.

Establishment of office of director of public prosecutions.

"3. A secretary of state may from time to time appoint "such assistants, not exceeding six, as may, with the sanction "of the Treasury, seem necessary for the proper execution of "his duties by the director of public prosecutions, and may

"assign them their duties. And the attorney general, with "the approval of a secretary of state, may from time to time "appoint such clerks, messengers and servants as may, with "the sanction of the Treasury, seem necessary for the proper "execution of his duties by the director of public prosecu-"tions, and may assign them their duties.

"There shall be paid to such assistants, clerks, messengers "and servants such salaries or remuneration as may be from "time to time fixed by the attorney general, with the ap-"proval of a secretary of state and the consent of the trea-"sury.

"The said salaries and remuneration, and the salary of the "director of public prosecutions, and all expenses incurred "in the execution of the duties of that director, shall be paid "out of moneys provided by Parliament.

"No assistant director of public prosecutions shall be ap-"pointed for any longer term than seven years; but any "person vacating his office by reason of this provision may "be re-appointed.

Qualification of director of public prosecutions and of assistants.

"4. A person appointed to be the director of public prose-"cutions, or to be an assistant of such director, shall be either "a barrister-at-law or a solicitor of the Supreme Court of "Judicature, and shall be in the case of the director in "actual practice and of not less standing than ten years, and "in the case of an assistant in actual practice and of not less "standing than seven years.

"Neither the director of public prosecutions nor any assist-"ant of such director shall directly or indirectly practise in "their profession except in the discharge of their duties under "this act.

Delivery of recognizances, inquisitions, &c. to director of public prosecutions.

"5. Where the director of public prosecutions gives notice "to any justice or coroner that he has instituted, or under-"taken, or is carrying on any criminal proceeding, such "justice and coroner shall at the time and in the manner pre-"scribed by the regulations under this act, or directed in any "special case by an order of the attorney general, transmit "to the said director every recognizance, information, certifi-"cate, inquisition, deposition, document and thing which is "connected with the said proceeding, and which the justice "or coroner is required by law to deliver to the proper officer "of the court in which the trial is to be had, and the said di-"rector shall, subject to the regulations under this act, cause

"the same to be delivered to the said proper officer of the "court, and shall be under the same obligation, on the same "payment, to deliver to an applicant copies thereof as the "said justice, coroner or officer.

"It shall be the duty of every clerk to a justice or to a "police court to transmit, in accordance with the regulations "under this act, to the director of public prosecutions, a copy "of the information and of all depositions and other docu-"ments relating to any case in which a prosecution for an "offence instituted before such justice or court is withdrawn "or is not proceeded with within a reasonable time.

"A failure on the part of any justice or coroner to comply "with this section shall be deemed to be a failure to comply "with the said requirement to deliver to the proper officer of "the court, and any clerk to a justice or to a police court "failing to comply with this section shall be liable to the "same penalty to which a justice or coroner is liable for such "failure as aforesaid.

If director abandon prosecution aggrieved parties may proceed.

"6. Where any criminal proceeding has been instituted or "undertaken by the director of public prosecutions, any "person having the right to institute and carry on such pro-"ceedings may, if he have good cause for so doing, show, by "affidavit to any judge of the High Court of Justice, that "such director of public prosecutions has abandoned such "proceedings, or has neglected duly to carry on the same, and "such judge, after hearing such director of public prosecu-"tions, may give such directions as to the mode in which "such proceedings shall be continued by such person so ap-"plying, or by the said director of public prosecutions, as to "such judge shall appear right.

Saving as to private prosecutors, and binding over persons to prosecute.

"7. Nothing in this act shall interfere with the right of any "person to institute, undertake or carry on any criminal pro-"ceeding.

"Where any criminal proceeding is instituted, undertaken "or carried on by the director of public prosecutions, such "director shall not be bound over to prosecute or conduct "such proceeding, or required to give security for costs, and "it shall not be necessary to bind over any person to prose-"cute or conduct such proceeding, and if any person is so "bound over, or has given security for costs, he shall, upon "the director of public prosecutions undertaking the case, be "released from such obligation, and the security shall be

"deemed to have been cancelled, and the director of public "prosecutions shall be liable to costs in lieu of such person.

"The prosecution of an offender by the director of public "prosecutions shall, for the purpose of enabling a person to "obtain a restitution of property, or obtaining, exercising or "enforcing any right, claim or advantage whatsoever, have "the same effect as if such person had been bound over to "prosecute and had prosecuted the offender, subject to this "proviso, that such person shall give all reasonable informa-"tion and assistance to the said director in relation to the "prosecution.

Regulations may be made, &c., and to be laid before parliament.

"8. The attorney general, with the approval of the lord "chancellor and a secretary of state, may from time to time "make, and when made rescind, vary and add to, regulations "for carrying into effect this act.

"The draft of all such regulations proposed to be approved "as aforesaid shall be laid before both Houses of Parliament "and shall not be finally approved as aforesaid until the draft "has lain before each house of parliament for not less than "forty days upon which such house has sat.

Interpretation.

"9. In this act, unless the context otherwise requires, the "following terms have the meanings hereinafter respectively "assigned to them; that is to say,

"The term 'the Treasury' means the commissioners of "her Majesty's treasury:

"The term 'secretary of state' means one of her Majesty's "principal secretaries of state:

"The term "person" includes a body of persons cor-"porate or unincorporate:

"The term 'attorney general' means her Majesty's "attorney general for England, and her Majesty's "solicitor general for England whenever such solicitor "general can by reason of a vacancy in the office of "attorney general or otherwise act as the attorney "general.

Commencement of act.

"10. This act shall come into operation on the first day of "January one thousand eight hundred and eighty, which day "is in this act referred to as the commencement of this "act."

Under the foregoing enactment John Blossett Maule, esq., q.c., has been appointed director of public prosecutions, whose office is in New Street, Spring Gardens, London, S.W.

RULES *as to Prosecutions under* 42 *&* 43 *Vict. c.* 22, *s.* 8.

THE director of public prosecutions shall be required to take action in such class of cases as have hitherto been conducted by the solicitor of the treasury by order of the secretary of state, and in other cases for the proper conducting of which, in his opinion, the ordinary mode of prosecution is insufficient.

The following rules are to be applied only in such cases :—

1. It shall be the duty of the director of public prosecutions to give advice in cases of importance and difficulty to justices of the peace, to clerks of justices of the peace, and to chief officers of police who may apply for his advice in such cases, and to other persons in his discretion, subject to any special instructions which he may receive from the attorney-general. Advice so given, may, at the discretion of the director of public prosecutions, be given verbally or in writing.

2. The director of public prosecutions may assist prosecutors by authorizing them to incur special costs for the purpose of—

(*a*) The preparation of scientific evidence.

(*b*) The remuneration of scientific witnesses.

(*c*) The payment of extra fees to counsel.

(*d*) The preparation of plans or models.

(*e*) And in respect of any special matters in such cases as the attorney-general may sanction.

So much of the costs that are thus authorized by the director of public prosecutions as shall not be allowed on taxation and paid by the authority that defrays the costs of the prosecution, and are found after examination by the solicitor of her Majesty's treasury to be reasonable and proper, shall be paid by the said solicitor.

3. Upon every application made by a prosecutor to withdraw from a prosecution, the clerk to the justices or to the police court before whom the prosecution has been in which such application is made, shall forthwith give notice to the director of public prosecutions of such application, and of the reasons for making it.

If any prosecution instituted before a justice of the peace or a police magistrate be not carried on within reasonable time, or be not proceeded with in consequence of an apparent improper refusal or failure of anyone who ought to proceed therewith, the clerk shall forthwith give notice to the director of public prosecutions of any such delay, refusal, or failure, and of the cause of the same, if it be known. And in all cases to which this rule applies he shall also, when required, forthwith transmit to the director of public prosecutions by post a copy of the information and of all depositions and other documents relating to the case in which such notice is given.

4. In all cases in which any delay in proceeding with a prosecu-

tion, or in which good cause is shown for any refusal or failure to proceed, and which appear to the director of public prosecutions to be of importance or difficulty, or in which special circumstances seem to him to render his action necessary to secure the due prosecution of an offender, he shall take action therein. And in these cases all expenses not allowed on taxation and paid by the authority that defrays the costs of the prosecution, and which are found after examination by the solicitor to her Majesty's treasury to be reasonable and proper, shall be paid by the said solicitor.

5. The assistant to the director of public prosecutions shall act for the whole of England and Wales.

6. In the conduct of any prosecution the director of public prosecutions and his assistant shall, as a rule, employ and instruct the solicitor of her Majesty's treasury, but under special circumstances may employ any solicitor or firm of solicitors to act as agents for the director in the conduct of a prosecution, in getting up evidence, preparing instructions for and instructing counsel, as is usually done by a solicitor, and for so doing such agent or agents shall be paid such costs and charges as the solicitor to her Majesty's treasury shall after examination find to be reasonable and proper.

7. In instructing counsel the director of public prosecutions shall act under the directions of the attorney-general.

8. The director of public prosecutions, in cases reserved for the opinion of the court of crown cases reserved which are brought to his notice, and in which no counsel for the prosecution is instructed, shall, when he thinks fit, or when so directed by the attorney-general, cause counsel as named by the attorney-general to be instructed, and the expenses of so doing to be defrayed by the solicitor to her Majesty's treasury.

9. Every justice of the peace or coroner to whom a notice has been given under section 5 of the Prosecution of Offences Act, 1879, shall within three days transmit by post in a registered letter to the director of public prosecutions every document which he is by the said section required to transmit.

The director of public prosecutions shall deliver or transmit by post such documents to the proper officers of the court in which the trial is to be had a reasonable time before such trial.

If he transmits such documents by post he shall transmit them in a registered letter addressed to such officer.

Settled and approved,

JOHN HOLKER.

Temple, 15th January, 1880.

CAIRNS, *C.*

R. ASSHETON CROSS.

PART II.

CHAPTER II.

A SYNOPSIS OF INDICTABLE OFFENCES

AT COMMON LAW AND BY STATUTE.

Preliminary Observations.

THE several matters as to procedure—from the preferring of the Charge to the Committal of the Accused for trial or his being held to bail—relative to the Offences in this Chapter, are regulated by the Practice detailed in the preceding Chapter, except where there are special enactments applicable to the particular Offence.

EXPLANATION OF THE COLUMNS.

"OFFENCE."

This is, in most instances, the exact description of the offences in the statute, and they are numbered throughout for more convenient reference.

"CLASS OF OFFENCE, AND STATUTE OR AUTHORITY."

This shows whether the Offence opposite to which it is placed is a Felony (F.), or a Misdemeanor (M.); and whether it is created by statute, or punishable by the common law.

"PAGE, &c. OF FORMULIST."

The reference to numbers and pages here given are to "Oke's Magisterial FORMULIST," *Sixth* edition, where the form of describing the Offence in the Information, Summons, Warrant, Commitment or other proceeding, is to be found.

"WHERE TRIABLE."

This is, generally, in conformity to the Act defining the jurisdiction of the Quarter Sessions (5 & 6 Vict. c. 38, *ante*, p. 964).

which are triable at the Sessions can, however, be tried
zes, if the latter takes place first. See *Note* 45, *ante*, p. 96
neral rule as to the place of trial is, that the offender,
the Assizes, must be tried in that county in which he con
the offence:—or, if tried at the Sessions, he must be tri
manner in that county, riding, division, city, or borou
which the offence was committed, and for which the Sessio
lden. The instances (in addition to those shown in the Not
this column) of enlargements of the rule, or exceptions to i
be seen in Vol. I. pp. 21—25. As to Offences within t
liction of the Admiralty, see *ante*, pp. 903—906.

"As to Bail."—See *ante*, p. 936.

e word "discretionary," opposite an Offence, means that it
retionary with the examining magistrate to take bail for t
used before Committal, and, when he commits, also discr
ary whether he will certify his consent to Bail being receiv
another magistrate. The word "compulsory" means that t
amining Magistrate must take Bail in these cases if sufficie
reties be tendered before committal, and also that if Accused
mitted, he must certify his consent to Bail being received.

"Punishment."

This is an abridged statement of the Punishment or other fo
feiture imposed by law for the Offence, corrected according to t
enactments hereafter mentioned in respect of penal servitude a
otherwise. The maximum and minimum term is stated shortl
thus in tit. "*Abduction*," where the Punishment is penal servitu
for not exceeding 14 years, or for not less than 5 years, &c
"Pen. Serv. 14—5 years," &c.;—but where it is absolute a
certain, it is stated according to the fact, and this is also the ca
in respect of the period of imprisonment. The word "month
means a calendar month (13 & 14 Vict. c. 21, s. 4).

The Penal Servitude Act, 1853, 16 & 17 Vict. c. 99, contained
s. 1—4, many provisions as to punishment; and, in s. 4, a sca
of terms of penal servitude to be awarded instead of transportatio
but by the Act of 1857, 20 & 21 Vict. c. 3, s. 1, the 16 & 17 Vic
c. 99, ss. 1, 2, 3 and 4, were repealed, and penal servitude subst
tuted for transportation; 20 & 21 Vict. c. 3, s. 2, enacting,—"Aft
"the commencement of this Act no person shall be sentenced
"transportation;—and any person who, if this Act and the sa
"Act had not been passed, might have been sentenced to tran
"portation, shall, after the commencement of this Act, be liable
"be sentenced to be kept in penal servitude for a term of the sa
"duration as the term of transportation to which such pers
"would have been liable if the said Act and this Act had not be

20 & 21 Vict. c. 3.

"passed;—and in every case where, at the discretion of the court, "one of any two or more terms of transportation might have been "awarded, the court shall have the like discretion to award one of "any two or more of the terms of penal servitude which are "hereby authorized to be awarded instead of such terms of trans-"portation:—Provided always, that any person who might, at the "discretion of the court, have been sentenced either to transporta-"tion for any term or to any period of imprisonment, shall be "liable, at the discretion of the court, to be sentenced either to "penal servitude for the same term or to the same period of im-"prisonment;—and in any case in which before the passing of the "said act sentence of seven years' transportation might have been "passed, it shall be lawful for the court in its discretion to pass a "sentence of penal servitude of not less than three years" [now five, 27 & 28 Vict. c. 47, s. 2, *infra*].

Sect. 6.

Sect. 6 also provides that,—"Where in any enactment now in "force the expression 'any crime punishable with transportation,' "or 'any crime punishable by law with transportation,' or any "expression of the like import, is used, the enactment shall be "construed and take effect as applicable also to any crime punish-"able with penal servitude."

27 & 28 Vict. c. 47, s. 2 (penal servitude not to be less than five years, nor after a conviction for felony, less than seven years).

By the Penal Servitude Act, 1864, 27 & 28 Vict. c. 47, s. 2, no person is to be sentenced to penal servitude for a period of less than five years, in any case, whether any less or greater period of penal servitude is to be awarded under any Act;—and where any person is convicted on indictment of any offence punishable with penal servitude, after having been previously convicted of felony (whether the previous conviction was upon an indictment or under the Criminal Justice Act, 18 & 19 Vict. c. 126), the least sentence of penal servitude that can be awarded is to be a period of seven years. 1

For common law offence.

For an offence at common law the term is not limited, but the courts seldom, even for offences the most aggravated, award a longer imprisonment than two years.

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34 & 35 Vict. c. 112, s. 9.

1 See the *general* mode laid down in "The Prevention of Crimes Act, 1871," 34 & 35 Vict. c. 112, s. 18, of proving a previous conviction, *ante*, pp. 950, 952. Section 9 of the same Act incorporates certain rules of procedure on the trial of indictments in general, by enacting that "the rules contained in the one hundred and sixteenth section of the 24 & 25 Vict. c. 96, intituled 'An Act to consolidate and amend the Statute Law of England and Ireland relating to Larceny and other similar Offences,' in relation to the form of and the proceedings upon an indictment for any offence punishable under that Act committed after previous conviction, shall, with the necessary variations, apply to any indictment for committing a crime as defined by this Act (*i. e.*, sect. 20, in *Note* 18, *ante*, p. 951), after previous conviction for a crime, whether the crime charged in such indictment or the crime to which such previous conviction relates be or be not punishable under the said Act of 24 & 25 Vict. c. 96."

It is also shown whether the imprisonment may be with hard labour, solitary confinement and whipping, and which of them.

With reference to some absolute terms of penal servitude, or those exceeding seven years, and periods of imprisonment, they are discretionary with the court under the 9 & 10 Vict. c. 24, which, by sect. 1, after reciting that in certain cases of felony the court is not empowered by law to award *sentence of* [*penal servitude*] *for a less period than the term of the offender's life, or some long term of years; or sentence of imprisonment for any shorter term than two years;* but it is desirable that some such offenders should suffer [penal servitude] or imprisonment for a shorter period respectively, at the discretion of the court before which they are convicted, enacts, "That in *all cases* where the court is now by law empowered "or required *to award a sentence of* [*penal servitude*] *exceeding seven* "*years*, it shall be lawful for such court, at its discretion, to award "a sentence of [penal servitude] for a term of years not less than "seven years, or to award such sentence of imprisonment for any "period *not exceeding two years*, with or without hard labour, "as shall to the court, in its discretion, appear just under all the "circumstances."

Absolute terms of punishment. 9 & 10 Vict. c. 24.

Where hard labour or solitary confinement, or whipping, or all, is stated, the imprisonment may be with or without all or either of them, in the discretion of the court pronouncing the judgment, and in some cases is authorized by 14 & 15 Vict. c. 100, s. 29, which enacts—that "whenever any person shall be convicted of any one "of the offences following, as an indictable misdemeanor, that is "to say,—any cheat or fraud punishable at common law; any con-"spiracy to cheat or defraud, or to extort money or goods, or falsely "to accuse of any crime, or to obstruct, prevent, pervert or defeat "the course of public justice;—any escape or rescue from lawful "custody on a criminal charge;—any public and indecent exposure "of the person;"—[*portion here repealed but re-enacted by* 24 & 25 *Vict. c.* 100, *ss.* 47, 52, *which sections are in tit.* "Assaults," *in column,* "Punishment"];—"any public selling, or exposing to public sale "or to public view, of any obscene book, print, picture, or other "indecent exhibition;—it shall be lawful for the court to sentence "the offender to be imprisoned for any term now warranted by "law, and also to be kept to hard labour during the whole or any "part of such term of imprisonment." Also under the Criminal Law Acts, 1861, "whenever imprisonment, with or without hard "labour, may be awarded for any indictable offence under this "act, the court may sentence the offender to be imprisoned, or to "be imprisoned and kept to hard labour, in the common gaol or "house of correction." (24 & 25 Vict. c. 96, s. 118; 24 & 25 Vict. c. 97, s. 74; 24 & 25 Vict. c. 98, s. 52; 24 & 25 Vict. c. 99, s. 39; 24 & 25 Vict. c. 100, s. 69.)

Hard labour. 14 & 15 Vict. c. 100, s. 29.

Solitary confinement.

With respect to solitary confinement, the 7 Will. 4 & 1 Vict. c. 90, s. 5 (which was saved in the repealing Act, 24 & 25 Vict. c. 95), enacts, "That it shall not be lawful for any court to direct "that any offender shall be kept in solitary confinement for any "longer period than one month at a time, or than three months in "the space of one year." In the Criminal Law Acts, 1861, there is this provision,—"Whenever solitary confinement may be awarded "for any indictable offence under this act, the court may direct the "offender to be kept in solitary confinement for any portion or "portions of his imprisonment, or of his imprisonment with hard "labour, not exceeding one month at any one time, and not exceed-"ing three months in any one year;—and whenever whipping "may be awarded for any indictable offence under this act, the "court may sentence the offender to be once privately whipped;—"and the number of strokes, and the instrument with which "they shall be inflicted, shall be specified by the court in the "sentence." (24 & 25 Vict. c. 96, s. 119; 24 & 25 Vict. c. 97, s. 75; 24 & 25 Vict. c. 98, s. 53 (no whipping); 24 & 25 Vict. c. 99, s. 40 (no whipping); 24 & 25 Vict. c. 100, s. 70.) The additional punishment of whipping was in 1863 extended by 26 & 27 Vict. c. 44, to the offences described in 24 & 25 Vict. c. 96, s. 43, of "robbery or assault by a person armed, or by two or more, or robbery and wounding" [*Offences* 312—315, *tit.* "Larceny," *post*], and to the offences described in 24 & 25 Vict. c. 100, s. 21, of "attempting to choke, &c. in order to commit any indictable offence" [*Offence* 48, *tit.* "Assaults," *post*].[2] The punishment of whipping was abolished in the case of female offenders by 1 Geo. 4, c. 57, s. 2; and the 3rd section of the same statute enacts the power of awarding, in lieu thereof, imprisonment with hard labour for not exceeding three nor

Whipping.

26 & 27 Vict. c. 44.

1 Geo. 4, c. 57.

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26 & 27 Vict. c. 44, s. 1.

[2] The 26 & 27 Vict. c. 44, after reciting these enactments of 24 & 25 Vict. c. 96, s. 43, and 24 & 25 Vict. c. 100, s. 21, and that "the punishment awarded by the said sections is insufficient to deter from crimes of violence," enacts,—"Where any person is convicted of a crime under either of the said sections, the court before whom he is convicted may, in addition to the punishment awarded by the said sections or any part thereof, direct that the offender, if a male, be once, twice, or thrice privately whipped, subject to the following provisions:

1. That in the case of an offender whose age does not exceed sixteen years the number of strokes at each such whipping do not exceed twenty-five, and the instrument used shall be a birch rod:
2. That in the case of any other male offender the number of strokes no not exceed fifty at each such whipping:
3. That in each case the court in its sentence shall specify the number of strokes to be inflicted and the instrument to be used:

Provided that in no case shall such whipping take place after the expiration af six months from the passing of the sentence; provided also, that every such whipping to be inflicted on any person sentenced to penal servitude shall be inflicted on him before he shall be removed to a convict prison with a view to his undergoing his sentence of penal servitude."

less than one month, or solitary confinement not exceeding seven days at any one time; but in the case of male offenders, the whipping may be once, twice or thrice, publicly or privately (and see *infra*).

Fine and sureties for keeping the peace.

In regard to fines and sureties for keeping the peace, each of the five Criminal Law Acts, 1861, enacts as follows:—"Whenever any "person shall be convicted of any indictable misdemeanor punish- "able under this act, the court may, if it shall think fit, in addition "to or in lieu of any of the punishments by this act authorized, fine "the offender, and require him to enter into his own recognizances, "and to find sureties, both or either, for keeping the peace and "being of good behaviour;—and in case of any felony punish- "able under this act the court may, if it shall think fit, require the "offender to enter into his own recognizances, and to find sureties, "both or either, for keeping the peace, in addition to any punish- "ment by this act authorized:—provided, that no person shall be "imprisoned under this clause for not finding sureties for any "period exceeding one year." (24 & 25 Vict. c. 96, s. 117; 24 & 25 Vict. c. 97, s. 73; 24 & 25 Vict. c. 98, s. 51; 24 & 25 Vict. c. 99, s. 38; 24 & 25 Vict. c. 100, s. 71.)

Supervision of police.

34 & 35 Vict. c. 112, s. 8.

By "The Prevention of Crimes Act, 1871," 34 & 35 Vict. c. 112, s. 8, "where any person is convicted on indictment of a crime" [*see definition of* "Crime" *in Note* 18, *ante*, *p.* 951], "and a pre- "vious conviction of a crime is proved against him, the court "having cognizance of such indictment may, in addition to any "other punishment which it may award to him, direct that he is "to be subject to the supervision of the police for a period of seven "years, or such less period as the court may direct, commencing "immediately after the expiration of the sentence passed on him "for the last of such crimes." [*The remaining portion of the section as to not notifying residence to the police, and the punishment of offences by convicts holding licences to be at large, see Note* 92, *p.* 370, *in tit.* "Convicts," *in Vol. I.*]

Care of children of woman convicted.

By sect. 14, the child of a woman convicted of such a crime, under fourteen years of age, who is without proper guardianship, may be sent to an industrial school. [*See tit.* "Industrial Schools," *in Chap. II. of Part III. in this Vol.*]

Death recording.

See 4 Geo. 4, c. 48, s. 1, and 2 & 3 Vict. c. 56, s. 17. Death may be recorded in a very few cases since the Criminal Law Acts, 1861.

Felonies not otherwise provided for.

By 7 & 8 Geo. 4, c. 28, s. 8, every person convicted of any felony "for which no punishment hath been or hereafter may be specially "provided" may be sentenced to [penal servitude, 20 & 21 Vict. c. 3, s. 2] for the term of seven years [or not less than five years, 27 & 28 Vict. c. 47, s. 2], or imprisonment not exceeding two years [with hard labour, 7 & 8 Geo. 4, c. 28, s. 9], and, if a male, whipping in addition and solitary confinement.

Cumulative sentences in felonies.

By 7 & 8 Geo. 4, c. 28, s. 10, wherever sentence is passed for any felony on a person already imprisoned under sentence, the court may award "imprisonment for the subsequent offence to commence "at the expiration of the imprisonment to which such person shall "have been previously sentenced."

As to judgments upon records in the Court of Queen's Bench, see 11 Geo. 4 & 1 Will. 4, c. 70, s. 9.

Detention of juvenile offenders in reformatory in addition to punishment.

29 & 30 Vict. c. 117.

By 29 & 30 Vict. c. 117, s. 14, offenders under the age of sixteen years, if convicted on indictment or in a summary manner of an offence punishable with penal servitude or imprisonment, and sentenced to be imprisoned for the term of ten days or a longer term, may be sent by the court, at the expiration of the sentence, to a certified reformatory school (the directors of which being willing to receive him), to be there detained for a period of not less than two years and not more than five years. These and other provisions of the act as to the particular school, changing it, &c. are given *in extenso*, Vol. I. pp. 209—213.

Convict's licence to be at large, and revoking same.

16 & 17 Vict. c. 99.

By 16 & 17 Vict. c. 99, s. 9, [3] her Majesty, by an order in writing under the hand and seal of the secretary of state, may grant to any convict under sentence of transportation, or sentenced to any punishment substituted for transportation, a licence to be at large in the United Kingdom and the Channel Islands, or in such part thereof as in the licence expressed, during a portion of his term of transportation or imprisonment, and upon such conditions as to her Majesty shall seem fit;—which licence may be altered or revoked by a like order at her Majesty's pleasure. Whilst such licence is in force and unrevoked, the convict is not liable to be imprisoned or transported (s. 10). By s. 11, if the licence be revoked, the secretary of state is by warrant to signify the fact to one of the police magistrates of the metropolis, and to require him to issue his warrant for the apprehension of the convict, and the constable may execute it without indorsement in any part of the United Kingdom or in the Channel Islands;—and when the convict is apprehended, he is to be brought before the magistrate who issued the warrant, or some other magistrate of the same court, who is to commit him to the prison or place of confinement from which he was released by virtue of his licence [or to any other prison in which convicts under sentence of penal servitude may be lawfully confined, 20 & 21 Vict. c. 3, s. 5], and thereupon the convict is to be remitted to his original sentence, and to undergo the residue thereof as if no such licence

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3 This act and the 20 & 21 Vict. c. 3, noticed *supra*, are, by sect. 7 of the latter, "to be read and construed together as one act." The 27 & 28 Vict. c. 47, is also incorporated with the 16 & 17 Vict. c. 99 and 20 & 21 Vict. c. 3. They are called the Penal Servitude Acts, 1853, 1857 and 1864 (34 & 35 Vict. c. 112, s. 20). The 34 & 35 Vict. c. 112, is not specially incorporated with either of them.

had been granted. By "The Prevention of Crimes Act, 1871," 34 & 35 Vict. c. 112, the licence held by a convict may be forfeited in two cases, by justices;—under sect. 3, when the convict is getting his livelihood by dishonest means; under sect. 5, when he does not report himself to the police (see tit. "*Convicts*," Offences 2, 4, pp. 370—372 of Vol. I.). By "The Penal Servitude Act, 1864," 27 & 28 Vict. c. 47, s. 9, where the licence is forfeited, the convict, after undergoing any other punishment to which he is sentenced for the offence in consequence of which his licence is forfeited, is to further undergo a term of penal servitude equal to the unexpired term at the time of his licence being granted, and may be removed by the warrant of any justice to a convict prison. But by 34 & 35 Vict. c. 112, s. 17, sub-s. 4, "where any offence against this act "involves the forfeiture of a licence granted under the Penal "Servitude Acts [*i. e.* under sects. 3, 5, *supra*], the court [of sum-"mary jurisdiction] by whom the offender is convicted may commit "him to any prison within its jurisdiction, there to remain until he "can conveniently be removed to some prison in which convicts "under sentence of penal servitude may lawfully be confined, in "order that he may there undergo the term of penal servitude to "which he is liable under the said penal servitude acts or some of "them;—and any person so committed may be kept to hard "labour."

34 & 35 Vict. c. 112.

27 & 28 Vict. c. 47, s. 9.

34 & 35 Vict. c. 112, s. 17, sub-s. 4.

Forfeiture of felon's goods abolished.

33 & 34 Vict. c. 23, ss. 1, 2.

By the 33 & 34 Vict. c. 23, "An Act to abolish Forfeitures for "Treason and Felony, and to otherwise amend the law relating "thereto" (passed 4th July, 1870), sect. 1,—"From and after the "passing of this act no confession, verdict, inquest, conviction, or "judgment of or for any treason or felony or felo de se shall cause "any attainder or corruption of blood, or any forfeiture" ["for-"feiture" being defined by sect. 6 as not to include any fine or penalty imposed on any convict by virtue of his sentence] "or "escheat, provided that nothing in this act shall affect the law of "forfeiture consequent upon outlawry." By sect. 2, a conviction for treason or felony is to be a disqualification for certain public offices, and forfeiture of pension, &c. By sect. 3, "It shall be "lawful for any court by which judgment shall be pronounced or "recorded, upon the conviction of any person for treason or felony, "in addition to such sentence as may otherwise by law be passed, "to condemn such person to the payment of the whole or any part "of the costs or expenses incurred in and about the prosecution "and conviction for the offence of which he shall be convicted, if "to such court it shall seem fit so to do;—and the payment of such "costs and expenses, or any part thereof, may be ordered by the "court to be made out of any moneys taken from such person on his "apprehension, or may be enforced at the instance of any person "liable to pay, or who may have paid the same, in such and the

Offender to be condemned in costs.

Sect. 3.

33 & 34 Vict. c. 23, s. 3.

"same manner (subject to the provisions of this act) as the payment of any costs ordered to be paid by the judgment or order of any court of competent jurisdiction in any civil action or proceeding may for the time being be enforced:—Provided, that in the meantime and until the recovery of such costs and expenses from the person so convicted as aforesaid, or from his estate, the same shall be paid and provided for in the same manner as if this act had not passed;—and any money which may be recovered in respect thereof from the person so convicted, or from his estate, shall be applicable to the reimbursement of any person or fund by whom or out of which such costs and expenses may have been paid or defrayed." By sect. 4, "it shall be lawful for any such court as aforesaid, if it shall think fit, upon the application of any person aggrieved, and immediately after the conviction of any person for felony, to award any sum of money, not exceeding one hundred pounds, by way of satisfaction or compensation for any loss of property suffered by the applicant through or by means of the said felony,—and the amount awarded for such satisfaction or compensation shall be deemed a judgment debt due to the person entitled to receive the same from the person so convicted, —and the order for payment of such amount may be enforced in such and the same manner as in the case of any costs ordered by the court to be paid under the last preceding section of this act." [The 33 & 34 Vict. c. 23, also contains provisions for realizing the estates of convicts, and the appointment of an interim curator by justices; the latter enactments being set out in Chap. II. of Part III. in this Volume, tit. "*Convicts*."]

Compensation to persons defrauded or injured by felony.

Sect. 4.

"IF COSTS OF PROSECUTION ALLOWED."—See *ante*, p. 981.

The word "No" signifies that no provision is made for the payment of these Costs, whether in attending the examining Magistrates or the Trial;—the word "Yes" (with the statute and section in the case of misdemeanors) means that the expenses, &c., attending the examining Magistrate as well as the Trial are allowed by the act named.

EXPLANATION OF ABBREVIATIONS USED.

F. . . .	Felony.	pen. serv.	penal servitude.
h. l. . .	hard labour.	pen. . .	penalty.
impr. . .	imprisonment.	s. c. . .	solitary confinement.
M. . . .	Misdemeanor.	w. . . .	whipping.
not exc. .	not exceeding.	yrs. . .	years.

OFFENCE.	Class of Offenc and Statute or Author
ABANDONING A CHILD. *See tit.* "Cruelty," *Offence* 154.	
ABDUCTION (*Note* 1).	
1. Where any woman of any age shall have any interest, whether legal *or* equitable, present *or* future, absolute, conditional *or* contingent in any real *or* personal estate, —*or* shall be a presumptive heiress *or* co-heiress, *or* presumptive next of kin, *or* one of the presumptive next of kin, to any one having such interest,—whosoever shall, from motives of lucre, take away *or* detain such woman against her will, with intent to marry *or* carnally know her, *or* to cause her to be married *or* carnally known by any other person.	F. 24 & 25 Vict. c. s. 53.
2. Whosoever shall fraudulently allure, take away, *or* detain such woman, being under the age of twenty-one years, out of the possession and against the will of her father, *or* mother, *or* of any other person having the lawful care *or* charge of her, with intent to marry *or* carnally know her, *or* to cause her to be married *or* carnally known by any other person.	F. Id.
3. Whosoever shall, by force, take away *or* detain against her will any woman, of any age, with intent to marry *or* carnally know her, *or* to cause her to be married *or* carnally known by any other person.	F. Id. s. 54.
4. Whosoever shall unlawfully take *or* cause to be taken any unmarried girl, being under the age of sixteen years, out of the possession and against the will of her father *or* mother, *or* of any other person having the lawful care or charge of her. [*See Note* 2 *for decisions.*]	M. Id. s. 55.
ABETTORS.	
5. *In Misdemeanors.*] Whosoever shall aid, abet, counsel *or* procure the commission of any misdemeanor, whether the same be a misdemeanor at common law *or* by virtue of any act passed *or* to be passed.	M. 24 & 25 Vict. c. 9 s. 8.
[*See also the column* "Punishment" *on opposite page.*]	
ABORTION.	
6. Every woman, being with child, who, with intent to procure her own miscarriage, shall unlawfully administer to herself any poison *or* other noxious thing,—*or* shall unlawfully use any instrument *or* other means whatsoever with the like intent,—	F. 24 & 25 Vict. c. 100 s. 58.
And	
7. Whosoever, with intent to procure the miscarriage of any woman, whether she be *or* be not with child, shall unlawfully administer to her *or* cause to be taken* by her any poison *or* other noxious thing,—*or* shall unlawfully use any instrument *or* other means whatsoever with the like intent.	

1 "ABDUCTION:" *Apprehension of certain Offenders without Warrant.*] By 24 & 25 Vict. c. 100, s. 66, "any constable or peace officer may take into custody, without a

	Page, &c. of Formalist.	Where triable.	As to Bail.	Punishment.	If Costs of Prosecution allowed.
1	No. 1, p. 514.	Assizes (5 & 6 Vict. c. 38, s. 1, *ante*, p. 973).	Discretionary.	Pen. serv. 14—5 yrs.; —*or* impr. not exc. 2 yrs., with *or* without h. l. (s. 53).	Yes.
				[MEM. *The offender to be incapable of taking any of her property* (s. 53).]	Yes.
2	No. 2, p. 515.	Id.	Id.	The same (s. 53). [MEM. *On conviction, if a marriage has taken place, property to be settled as Court of Chancery appoints.*]	Yes.
3	No. 3, p. 515.	Id.	..	The same punishment as Offence 1, *supra* (s. 54).	Yes.
4	No. 4, p. 515.	Id.	Id.	Impr. not exc. 2 years, with or without h. l. (s. 55). [*See further, tit.* "Child Stealing."]	Yes. (s. 77, and 14 & 15 Vict. c. 55, s. 2, *ante*, p. 984).
5	No. 5, p. 515.	Where principal triable.	As principal.	As the principal offender (s. 8). [*See also* 24 & 25 *Vict. c.* 96, *s.* 98;—24 & 25 *Vict. c.* 97, *s.* 56;—24 & 25 *Vict. c.* 98, *s.* 49;—24 & 25 *Vict. c.* 99, *s.* 35;—24 & 25 *Vict. c.* 100, *s.* 67.]	As principal.
6, 7	Nos. 6, 7, 8, p. 515.	Assizes (5 & 6 Vict. c. 38, s. 1, *ante*, p. 973).	Discretionary.	Pen. serv. life—5 yrs. —*or* impr. not exc. 2 yrs., with *or* without h. l. and s. c. (s. 58). *[*See* Reg. *v.* Wilson, 1 *Dears & B.* 127; 26 *L. J.* (*N. S.*) *M. C.* 18; Reg. *v.* Farrow, 28 *Law T., N. S.* 311.]	Yes.

warrant, any person whom he shall find lying or loitering in any highway, yard or other place during the night, and whom he shall have good cause to suspect of having

OFFENCE.	Class of Offen and Statute or Autho
ABORTION—*continued.*	
8. Whosoever shall unlawfully supply *or* procure any poison *or* other noxious thing, *or* any instrument *or* thing whatsoever, knowing that the same is intended to be unlawfully used *or* employed with intent to procure the miscarriage of any woman, whether she be *or* be not with child* (*See opposite.*)	M. 24 & 25 Vict. c s. 59.
ACCESSORIES (*Note* 4).	
9. *Before* the fact to any felony. [*See sect.* 2, *ante, p.* 884, *and* Reg. *v.* Gregory, 36 *L. J.* (*N. S.*) *M. C.* 60.]	F. 24 & 25 Vict. c ss. 1, 2.
10. *After* the fact to any felony under the Offences against the Person Act (except murder, *for which see tit.* "Murder").	F. 24 & 25 Vict. c. s. 67.
11. *After* the fact to any felony under the Larceny, &c. Act (except a receiver of stolen property).	F. 24 & 25 Vict. c s. 98.
12. *After* the fact to any felony under the Malicious Injuries to Property Act.	F. 24 & 25 Vict. c s. 56.
13. *After* the fact to any other felony, whether at common law *or* by any act passed *or* to be passed. [*See further titles* "Forgery," "Coin," "Larceny," "Malicious Injuries," "Principals in Second Degree."]	F. 24 & 25 Vict. c. s. 3.
ACCOUNTS, FALSIFICATION OF. *See* "Falsification of Accounts."	
ACCUSING OF CRIME (*Note* 5).	
14. Whosoever shall accuse, *or* threaten to accuse, either the person to whom such accusation *or* threat shall be made, *or* any other person, of any infamous *or* other crimes [s. 46] with the view or intent to extort *or* gain from such person so accused *or* threatened to be accused, *or* from any other person, any property, &c. [*See Reg.* v. *Redman*, 39 *L. J.* (*N. S.*) *M. C.* 89.]	F. 24 & 25 Vict. c. s. 47.
15. Whosoever, with intent to defraud *or* injure any other person, shall by any unlawful violence to, *or* restraint of, *or* threat of violence to *or* restraint of the person of another, —*or* by accusing, or threatening to accuse, any person of any treason, felony *or* infamous crime,—compel *or* induce any person to execute a deed, impress a seal, &c. [*See titles* "Letter (Threatening)," *and* "Sodomy."]	F. Id. s. 48.

committed or being about to commit any *felony* in this act mentioned, and shall ts such person as soon as reasonably may be before a justice of the peace, to be dealt wi according to law." As to apprehension for felony *seen to be committed*, see *Note* 78, t "*Larceny*," and as to *misdemeanors*, see 14 & 15 Vict. c. 19, s. 11, *ante*, p. 913.

2 *Decisions on* 24 & 25 *Vict. c.* 100, *s.* 55.] *Reg.* v. *Timmins*, 1 Bell, C. C. 276; L. J. (N. S.) M. C. 45; 3 Law T., N. S. 337; *Reg.* v. *Primett*, 1 F. & F. 50—Co burn, C. J.; *Reg.* v. *Robb*, 4 F. & F. 59—Pollock, C. B.; *Reg.* v. *Frazer*, 8 Cox, C. 436—Pollock, C. B.; *Reg.* v. *Hibbert*, 38 L. J. (N. S.) M. C. 61; 19 Law T., N. S. 79 A man took out of the possession and against the will of her father a girl of the age

	Page, &c. of Formulist.	Where triable.	As to Bail.	Punishment.	If Costs of Prosecution allowed.
8	No. 9, p. 516.	Sessions.	Discretionary.	Pen. serv. 5 years;—*or* impr. not exc. 2 yrs., with *or* without h. l. (s. 59). *[*See Note* 3 *for decisions.*]	Yes (s. 77).
9	Nos. 10, 11, p. 516.	Where principal triable (24 & 25 Vict. c. 94, s. 7).	Discretionary.	Same as principal felon (ss. 1, 2).	Yes.
10	Nos. 12, 13, p. 516.	Id.	Id.	Impr. for not exc. 2 years, with *or* without h. l. (s. 67).	Yes.
11	Id.	Id.	Id.	Impr. not exc. 2 years, with *or* without h. l. and s. c. (s. 98).	Yes.
12	Id.	Id.	Id.	The same (s. 56).	Yes.
13	Id.	Id.	Id.	Impr. not exc. 2 years, with *or* without h. l., and sureties for keeping the peace for not exc. 1 year (s. 4).	Yes.
14	No. 14, p. 516.	Assizes (5 & 6 Vict. c. 38, s. 1, *ante*, p. 973).	Discretionary.	Pen. serv. life—5 yrs.; —*or* impr. not exc. 2 yrs., with or without h. l., and, if under 16, whipping (s. 47).	Yes.
15	No. 15, p. 517.	Id.	Id.	Pen. serv. life—5 yrs.; —*or* impr. not exc. 2 yrs., with *or* without h. l. and s. c. (s. 48). [MEM. *It is immaterial from whom the menaces proceed* (*s.* 49, *Note* 84, *post*).]	Yes.

fourteen, who, however, looked much older than sixteen; and the jury found as a fact that before the man took her away she had told him she was eighteen, and that he *bonâ fide* believed such statement, and that such belief was reasonable:—Held, that he was guilty of the misdemeanor within the section, though he did not know that the girl was under the age of sixteen, and even believed that she was over that age. *Reg.* v. *Prince*, 44 L. J., M. C. 122.

[* "ABORTION:" *Decisions on* 24 & 25 *Vict. c.* 100, *s.* 59.] *Reg.* v. *Isaacs*, 32 L. J. (N. S.) M. C. 52; 1 Leigh & Cave, C. C. 220; 7 Law T., N. S. 365; *Reg.* v. *Hillman*, 35 L. J. (N. S.) M. C. 60; 1 Leigh & Cave, C. C. 343; 9 Law T., N. S. 518.

OFFENCE.	Class of Offence and Statute or Authority.
ADMINISTERING POISON. *See title* "Poison."	
ADMIRALTY, Offences within the jurisdiction of the	.. ..
16. Uttering false petitions, certificates, &c., in order to sustain claim to pay wages, &c., from the compassionate fund of the navy, &c. [*see the section, Offences* 1, 2, *ante, p.* 282, *the offences being also punishable summarily.*] [MEM. *Section* 7 *incorporates ss.* 40, 41, 42, 50, 51, 52 *and* 53 *of the Forgery Act,* 24 *&* 25 *Vict. c.* 98, *as to procedure, which are to apply to this misdemeanor. See tit.* "Forgery."]	M. 28 & 29 Vict. c. 124, s. 6.
17. Personating any person entitled to pay, wages, prize-money, &c., payable from Admiralty [*see the section, Offence* 3, *ante, p.* 282, *the offence being also punishable summarily*].	M. Id. s. 8.
AFFRAY.	
18. Two or more persons fighting in some public place, to the terror of the people (*Note* 6).	M. 4 Bl. Comm. 145; 1 Hawk. c. 63, ss. 1, 3.
AGENTS (*Notes* 7, 8).	
19. Banker, merchant, broker, attorney *or* other agent entrusted with money *or* security for money, with direction in writing to apply, &c. same *or* the proceeds for any purpose specified in such direction, in violation of good faith and contrary to terms of direction, converting money, &c. to his own use, &c.,	M. 24 & 25 Vict. c. 96, s. 75.
or	
20. Entrusted with any chattel *or* valuable security [*definition in Note* 80, *tit.* "Larceny"] *or* power of attorney for sale *or* transfer of interest in public *or* other funds, for safe custody *or* special purpose, without authority to sell, &c., in violation of good faith and contrary to such object *or* purpose, selling, negotiating, &c., *or* converting such chattel, security, &c.	

4 "ACCESSORIES:" *Several Accessories—Admiralty Jurisdiction.*] By 24 & 25 Vict. c. 94, s. 6, "any number of accessories at different times to any felony, and any number of receivers at different times of property stolen at one time, may be charged with substantive felonies in the same indictment, and may be tried together, notwithstanding the principal felon shall not be included in the same indictment, or shall not be in custody or amenable to justice." See also other enactments as to accessories, *ante,* pp. 885—888; and as to the jurisdiction of the Admiralty, see s. 9, *ante,* p. 886.

5 "ACCUSING OF CRIME:" *Apprehension of Offenders without Warrant—Restitution of Property.*] *Note* 78, tit "*Larceny,*" is applicable to the offences in this title.

6 "AFFRAY:" The parties may, instead of being committed for trial for the affray, or an assault, or an indictment preferred against them, in the first instance be bound over to keep the peace. See title "*Prize Fights,*" and Chap. II. of Part III.

7 "AGENTS:" *Apprehension of Offenders without Warrant—Restitution of Property. Note* 78, in tit. "*Larceny,*" *post,* is applicable to the offences in this title.

8 *Definitions of terms* "*intrusted,*" "*advance,*" *&c.—Exceptions to Offences.*] Sect. 79 contains a variety of definitions too long to insert here. By 24 & 25 Vict. c. 96, s. 85,

	Page, &c. of Pamphlet.	Where triable.	As to Bail.	Punishment.	If Costs of Prosecution allowed.
	..	..	..	[*See ante, p.* 907, *and titles* "Piracy," "Sea, Offences at."]	
	..	Sessions.	Compulsory.	Pen. serv. 5 years;—*or* impr. not exc. 2 yrs., with *or* without h. l. and s. c. (s. 6). [MEM. *Section* 9 *saves punishment under other acts or at common law.*]	No.
	..	Id.	Id.	Pen. serv. 5 years;—*or* impr. not exc. 2 yrs., with *or* without hard labour and solitary confinement (s. 8).	No.
	Nos. 16, 17, p. 517.	Sessions.	Compulsory.	Fine *or* imprisonment, *or* both.	No.
	Nos. 18, 19, pp. 517, 518.	Assizes (s. 87).	Discretionary.	Pen. serv. 7—5 years;—*or* impr. not exc. 2 years, with *or* without hard labour and s. c. (s. 75). [MEM. *This section is not to affect trustees or mortgagees; nor bankers, &c. receiving money due on securities, or disposing of securities on which they have a lien* (s. 75).]	Yes (s. 121).

"nothing in any of the last ten preceding sections of this act contained [*i.e.* those under this title and '*Fraudulent Trustees*,' *post*] shall enable or entitle any person to refuse to make a full and complete discovery by answer to any bill in equity, or to answer any question or interrogatory in any civil proceeding in any court, or upon the hearing of any matter in bankruptcy or insolvency;—and no person shall be liable to be convicted of any of the misdemeanors in any of the said sections mentioned by any evidence whatever in respect of any act done by him, if he shall at any time previously to his being *charged with* such offence have *first* disclosed such act on oath, in consequence of any compulsory process of any court of law or equity, in any action, suit or proceedings which shall have been *bonâ fide* instituted by any party aggrieved, or if he shall have *first* disclosed the same in any compulsory examination or deposition before any court upon the hearing of any matter in bankruptcy or insolvency" (see *Reg.* v. *Allen and Freeman*, 1 Bell, C. C. 97; 28 L. J. (N. S.) M. C. 91). By sect. 86, "nothing in any of the last eleven preceding sections of this act contained, nor any proceeding, conviction or judgment to be had or taken thereon against any person under any of the said sections, shall prevent, lessen or impeach any remedy at law or in equity

OFFENCE.	Class of Of and Statute or Au
AGENTS—*continued.*	
21. Factor *or* agent intrusted for sale *or* otherwise with goods, *or* document of title to goods [*definition in Note* 80, *tit.* "Larceny"]—contrary to *or* without authority of his principal, for his own use, and in violation of good faith, making any consignment, deposit, &c. of goods *or* document, by way of pledge, &c.,	M. 24 & 25 Vi s. 78.
or	
22. Contrary to *or* without authority, for his own use, accepting advance of money, &c. on faith of contract to consign, deposit, &c. such goods *or* document;—	
or	
23. Any clerk *or* other person wilfully acting and assisting in making consignment, deposit, &c. [*See further, tits.* "Fraudulent Trustees," "Vendors."]	
ALIENS.	
24. Any person wilfully and corruptly making *or* subscribing any declaration under the Naturalization Act, 1870 [33 Vict. c. 14], knowing the same to be untrue in any material particular.	M. 33 & 34 Vict. s. 2.
ANATOMY. *See tit.* "Dead Bodies."	
APPRENTICE.	
25. Master ill-treating a parish apprentice. [*Neglecting to provide food, &c., see tit.* "Servants."]	M. 32 Geo. 3, c. s. 11.
ARMS.	
26. Training to the use of;—*or* aiding or assisting therein;—*or* present for the purpose of being trained;—*or* being trained. [MEM. *The prosecution is to be commenced within six calendar months* (*s.* 7).]	M. 60 Geo. 3 & 1 G c. 1, s. 1.
ARSON (*Notes* 9, 10).	
27. *To Buildings and Goods therein.*] Whosoever shall unlawfully and maliciously set fire to any church, chapel, meeting-house, *or* other place of divine worship.	F. 24 & 25 Vict. c s. 1.
28. Whosoever shall unlawfully and maliciously set fire to any dwelling-house, any person being therein [*see* Reg. *v.* Edgell, 11 *Cox, C. C.* 132].	F. Id. s. 2.

which any party aggrieved by any offence against any of the said sections might l had if this act had not been passed; but no conviction of any such offender sha received in evidence in any action at law or suit in equity against him;—and not in the said sections contained shall affect or prejudice any agreement entered in

Page, &c. of Formalist.	Where triable.	As to Bail.	Punishment.	If Costs of Prosecution allowed.
Nos. 20, 21, p. 518.	Assizes (s. 87).	Discretionary.	Same as Offences 19, 20, *supra* (s. 78). [MEM. *The factor, &c. is not liable to prosecution for consigning, &c. goods, &c. in case the same is not made a security, &c. for a greater sum than the amount which at the time is justly due and owing to the agent from his principal, together with the amount of any bill drawn by principal and accepted by agent* (s. 78).]	Yes.
24 ..	Sessions.	Compulsory.	Imprisonment with *or* without hard labour for not exceeding 12 months (s. 2) [*see the act in tit.* "Aliens," *Chap.* 2 *of Part III.*]	No.
25 Recogn. No. 10, p. 95.	Sessions.	Compulsory.	Fine *or* imprisonment, *or* both.	Yes (see s. 11).
26 Nos. 22—25, pp. 518, 519.	Assizes.	Compulsory.	Penal servitude 7—5 years;—*or* fine, *or* imprisonment not exceeding 2 years *or* both.	No.
27 No. 26, p. 519.	Assizes.	Discretionary.	Pen. serv. life—5 yrs.;—*or* impr. not exc. 2 yrs., with *or* without h. l., s. c. and, if a male under 16, w. (s. 1).	Yes.
28 No. 27, p. 519.	Id.	Id.	The same (s. 2). [*The punishment was previously capital.*]	Yes.

...urity given by any trustees, having for its object the restoration or repayment of ...y trust property misappropriated."

9 "ARSON:" *Apprehension of Offenders without Warrant—Search for Gunpowder, &c.*]

...No. 20 in tit. "*Malicious Injuries.*"

OFFENCE.	Class of Offence and Statute or Authority.
ARSON—*continued.*	
29. Whosoever shall unlawfully and maliciously set fire to any house, stable, coach-house, outhouse, warehouse, office, shop, mill, malthouse, hop-oast, barn, storehouse, granary, hovel, shed, *or* fold,—*or* to any farm building,—*or* to any building *or* erection used in farming land,—*or* in carrying on any trade *or* manufacture *or* any branch thereof,—whether the same shall then be in the possession of the offender *or* in the possession of any other person, with intent thereby to injure *or* defraud any person.	F. 24 & 25 Vict. c. 97, s. 3.
30. Whosoever shall unlawfully and maliciously set fire to any station, engine-house, warehouse, *or* other building, belonging *or* appertaining to any railway, port, dock, *or* harbour, *or* to any canal *or* other navigation.	F. Id. s. 4.
31. Whosoever shall unlawfully and maliciously set fire to any building other than such as are in this act before mentioned, belonging to the Queen,—*or* to any county, riding, division, city, borough, poor law union, parish *or* place,—*or* belonging to any university, *or* college *or* hall of any university,—*or* to any inn of court, *or* devoted or dedicated to public use *or* ornament—*or* erected *or* maintained by public subscription *or* contribution.	F. Id. s. 5.
32. Whosoever shall unlawfully and maliciously set fire to any building other than such as are in this act before mentioned. [MEM. *An unfinished house, brick built, of which all the walls, external and internal, were built and finished, the roof on and finished, the flooring of a considerable part laid, and the internal walls and ceilings prepared for plastering, is a building within the* 6*th section* (Reg. *v.* Manning, 41 *L. J., M. C.* 11).]	F. Id. s. 6.
33. Whosoever shall unlawfully and maliciously set fire to any matter *or* thing, being in, against *or* under any building, under such circumstances that if the building were thereby set fire to the offence would amount to felony.*	F. Id. s. 7.
34. Whosoever shall unlawfully and maliciously by any overt act attempt to set fire to any building,—*or* any matter *or* thing in the last preceding section mentioned,—under such circumstances that if the same were thereby set fire to the offender would be guilty of felony.	F. Id. s. 8.
35. *To Corn, &c.*] Whosoever shall unlawfully and maliciously set fire to any crop of hay, grass, corn, grain *or* pulse,—*or* of any cultivated vegetable produce,—whether standing *or* cut down,—*or* to any part of any wood, coppice, *or* plantation of trees, *or* to any heath, gorse, furze, *or* fern, wheresoever the same may be growing.	F. Id. s. 16.

10 *Malice against Owner—Offences by Occupiers—Intent to injure or defraud.*] Malice against the owner of property injured unnecessary (24 & 25 Vict. c. 97, s. 58). The

	Page, &c. of Pamphlet.	Where triable.	As to Bail.	Punishment.	If Costs of Prosecution allowed.
29	No. 28, p. 519.	Assizes.	Discretionary.	The same as Offence 30, *infra* (s. 3). [MEM. *As to ownership and intent to injure, see* Reg. *v.* Newboult, 41 *L. J.* (*N. S.*) *M. C.* 63.]	Yes.
30	No. 29, p. 519.	Id.	Id.	Pen. serv. life—5 yrs.; —*or* impr. not exc. 2 yrs., with *or* without h. l., s. c., and, if a male under 16, w. (s. 4).	Yes.
31	No. 30, p. 519.	Id.	Id.	The same (s. 5).	Yes.
32	No. 31, p. 519.	Assizes *or* Sessions [see *Note* 11].	Id.	Penal servitude 14—5 yrs.; — *or* imprisonment not exceeding 2 years, with *or* without hard labour, and if a male under 16, whipping (s. 6).	Yes.
33	Nos. 32, 33, p. 520.	Id.	Id.	The same (s. 7). *[*See* Reg. *v.* Child, 40 *L. J.*, *M. C.* 127; 24 *Law T.*, *N. S.* 556.]	Yes.
34	No. 34, p. 520.	Id.	Id.	Pen. serv. 14—5 yrs.; —*or* impr. not exc. 2 yrs., with *or* without h. l. and s. c., and, if a male under 16, w. (s. 8).	Yes.
35	Nos. 35, 36, p. 520.	Assizes.	Id.	The same (s. 16).	Yes.

provisions of the act are to apply to persons in possession of such property (Id. s. 39).

OFFENCE.	Class of Offence and Statute or Authority.
ARSON—*continued.*	
36. Whosoever shall unlawfully and maliciously set fire to any stack of corn, grain [*see* Reg. *v.* Spencer, 1 *Dears. & B. C. C.* 131; 26 *L. J.* (*N. S.*) *M. C.* 17], pulse, tares, hay, straw, haulm, stubble,—*or* of any cultivated vegetable produce,—*or* of furze, gorse, heath, fern, turf, peat, coals, charcoal, wood *or* bark,—*or* to any steer of wood *or* bark. [MEM. *A quantity of straw packed on a lory in course of transmission to market, and left for the night in the yard of an inn, is not a stack of straw within the meaning of the* 17*th section* (Reg. *v.* Satchwell, 42 *L. J., M. C.* 63).]	F. 24 & 25 Vict. c. 97, s. 17.
37. Whosoever shall unlawfully and maliciously by any overt act attempt to set fire to any such matter *or* thing as in either of the two last preceding sections mentioned, under such circumstances that if the same were thereby set fire to the offender would be, under either of such sections, guilty of felony.	F. Id. s. 18.
38. *To Mines.*] Whosoever shall unlawfully and maliciously set fire to any mine of coal, cannel coal, anthracite, *or* other mineral fuel.	F. Id. s. 26.
39. Whosoever shall unlawfully and maliciously by any overt act attempt to set fire to any mine under such circumstances that if the mine were thereby set fire to the offender would be guilty of felony.	F. Id. s. 27.
40. *To Ships, &c.*] Whosoever shall unlawfully and maliciously set fire to, cast away, *or* in anywise destroy any ship *or* vessel, whether the same be complete *or* in an unfinished state.	F. Id. s. 42.
41. Whosoever shall unlawfully and maliciously set fire to, *or* cast away, *or* in anywise destroy—any ship *or* vessel, with intent thereby to prejudice any owner or part owner of such ship *or* vessel, *or* of any goods on board the same, *or* any person that has underwritten *or* shall underwrite any policy of insurance upon such ship *or* vessel, *or* on the freight thereof, *or* upon any goods on board the same.	F. Id. s. 43.
42. Whosoever shall unlawfully and maliciously by any overt act attempt to set fire to, cast away, *or* destroy any ship or vessel, under such circumstances that if the ship *or* vessel were thereby set fire to, cast away, *or* destroyed, the offender would be guilty of felony.	F. Id. s. 44.

11 *Query, Offences under* 24 *&* 25 *Vict. c.* 97, *ss.* 6, 7, 8, *triable at Quarter Sessions?*] Strictly, the quarter sessions have jurisdiction to try cases under sects. 6, 7, 8 of 24 & 25 Vict. c. 97, although it seems to have been the intention of the legislature to exclude all cases of arson (Davis's Cr. Law, pp. 122, 125). After the passing of 5 & 6 Vict. c. 38. s. 1 (*ante*, p. 973), which prohibits the trial of offences punishable with transportation for life, or (in paragraph 9, *ante*, p. 973) setting fire to crops of corn, &c.

	Page, &c. of Formalist.	Where triable.	As to Bail.	Punishment.	If Costs of Prosecution allowed.
5	No. 37, p. 520.	Assizes.	Discretionary.	Pen. serv. life—5 yrs.; —*or* impr. not exc. 2 yrs., with *or* without h. l. and s. c., and, if a male under 16, w. (s. 17).	Yes.
7	No. 38, p. 521.	Assizes *or* Sessions [*see Note* 11].	Id.	Pen. serv. 7—5 yrs.;—*or* impr. with *or* without h. l., s. c., and, if a male under 16, w. (s. 18).	Yes.
38	No. 39, p. 521.	Assizes.	Id.	The same as Offence 36, *supra* (s. 26).	Yes.
39	No. 40, p. 521.	Assizes *or* Sessions [*see Note* 11].	Id.	Pen. serv. 14—5 yrs.;—*or* impr. not exc. 2 yrs., with *or* without h. l., s. c., and, if a male under 16, w. (s. 27).	Yes.
40	No. 41, p. 521.	Assizes.	Id.	The same as Offence 41, *infra* (s. 42).	Yes.
41	No. 42, p. 521.	Id.	Id.	Pen. serv. life—5 yrs.; —*or* impr. not exc. 2 yrs., with *or* without h. l., s. c., and, if a male under 16, w. (s. 43).	Yes.
42	No. 43, p. 521.	Id. *or* Sessions. [*see Note* 11].	Id.	The same as Offence 39, *supra* (s. 44).	Yes.

Offence 35 in this title, being the only cases of arson at that time not punishable so severely as by transportation for life), the 9 & 10 Vict. c. 25, now repealed by 24 & 25 Vict. c. 95, created similar offences to those in sects. 6, 7, 8 of the text (24 & 25 Vict. c. 97), punishable by a like term of penal servitude, and it was therefore apparently considered necessary to exclude (which was done by sect. 15 of that act) the jurisdiction of the quarter sessions. The quarter sessions not being now excluded by the

OFFENCE.	Class of Offe and Statute or Auth
ARSON—*continued.*	
43. Setting fire to her Majesty's vessels of war, &c.	F. 12 Geo. 3, c. :
44. Setting fire to the works *or* vessels lying in dock. [*See further* "Gunpowder," "Malicious Injuries," "Accessories" *and* "Principals in Second Degree."]	F. 39 Geo. 3, c. 6
ART, WORKS OF, Damaging. *See tit.* "Malicious Injuries."	
ASSAULTS (*Notes* 12).	
45. *Acts causing or tending to cause Danger to Life or bodily Harm.*] Whosoever shall unlawfully and maliciously prevent *or* impede any person, being on board of *or* having quitted any ship *or* vessel which shall be in distress, *or* wrecked, stranded *or* cast on shore, in his endeavour to save his life,—*or* shall unlawfully and maliciously prevent *or* impede any person in his endeavour to save the life of any such person as in this section first aforesaid.	F. 24 & 25 Vict. s. 17.
46. Whosoever shall unlawfully and maliciously by any means whatsoever wound *or* cause any grievous bodily harm to any person,—*or* shoot at any person,—*or* by drawing a trigger *or* in any other manner attempt to discharge any kind of loaded arms at any person,—with intent, in any of the cases aforesaid, to maim, disfigure, *or* disable any person, *or* to do some other grievous bodily harm to any person, *or* with intent to resist *or* prevent the lawful apprehension *or* detainer of any person. [*See* Reg. *v.* Marsden, 37 *L. J.* (*N. S.*) *M. C.* 80, *and Note* 13.]	F. Id. s. 18.
47. Whosoever shall unlawfully and maliciously wound *or* inflict any grievous bodily harm upon any other person, either with or without any weapon *or* instrument. [*See Note* 14.]	M. Id. s. 20.

24 & 25 Vict. c. 97, it has jurisdiction over these offences; but it is submitted justices will do right in sending all cases of arson to the assizes as being within spirit, though not the letter, of the 5 & 6 Vict. c. 38, s. 1, Division 9.

12 "ASSAULTS:" *Apprehension of certain Offenders without Warrant—Costs of P cutor to be paid by Defendants for Assaults.*] As to apprehension, see *Note* 1, *ante*, p. 1 As to the costs, by 24 & 25 Vict. c. 100, s. 74, "Where any person shall be convi on any indictment of any assault, whether with or without battery and wounding either of them, such person may, if the court think fit, in addition to any sent which the court may deem proper for the offence, be adjudged to pay to the prosec his actual and necessary costs and expenses of the prosecution, and such mode allowance for the loss of time as the court shall by affidavit or other inquiry examination ascertain to be reasonable;—and, unless the sum so awarded shall sooner paid, the offender shall be imprisoned for any term the court shall award, exceeding three months, in addition to the term of imprisonment (if any) to which offender may be sentenced for the offence" (see *Lowe* v. *Horwarth*, 13 Law T., N 297). By sect. 75, "The court may, by warrant under hand and seal, order such as shall be so awarded to be levied by distress and sale of the goods and chattels of offender, and paid to the prosecutor, and that the surplus, if any, arising from s

	Page, &c. of Formulist	Where triable.	As to Bail.	Punishment.	If Costs of Prosecution allowed.
43	No. 44, p. 521.	Assizes.	Discretionary.	Death [sentence recorded, 4 Geo. 4, c. 48, s. 1; 2 & 3 Vict. c. 56, s. 17].	Yes.
44	Id.	Id.	Id.	Death [Id.]	Yes.
45	No. 45, p. 521.	Assizes.	Discretionary.	Penal servitude for life —5 years;—*or* impr. not exceeding 2 yrs., with *or* without hard labour and solitary confinement (s. 17).	Yes.
46	Nos. 46, 47, pp. 521, 522.	Id.	Id.	The same as Offence 45, *supra* (s. 18). [*Sect.* 19 *defines loaded arms to be a gun, pistol, or other arms loaded in the barrel with gunpowder or any other explosive substance, and ball, shot, slug or other destructive material.*]	Yes.
47	No. 48, p. 522.	Sessions.	Id.	Pen. serv. 5 years;—*or* impr. not exc. 2 yrs., with *or* without hard labour (s. 20).	Yes (s. 77).

sale, shall be paid to the owner; and in case such sum shall be so levied the imprisonment awarded until payment of such sum shall thereupon cease." If the complainant is under sixteen years of age, see *ante*, p. 965, as to directing the prosecution to be carried on.

13 *Offenders charged with feloniously Stabbing, Cutting or Wounding, may be convicted of unlawfully Wounding.*] By 14 & 15 Vict. c. 19, s. 5, "if upon the trial of any indictment for any felony, except murder or manslaughter, where the indictment shall allege that the defendant did stab, cut or wound any person, the jury shall be satisfied that the defendant is guilty of the cutting, stabbing or wounding charged in such indictment, but are not satisfied that the defendant is guilty of the felony charged in such indictment, then, and in every such case, the jury may acquit the defendant of such felony, and find him guilty of unlawful cutting, stabbing or wounding; and, thereupon, such defendant shall be liable to be punished in the same manner as if he had been convicted upon an indictment for the misdemeanor of cutting, stabbing or wounding." And see *Reg.* v. *Cunningham*, 1 Bell, C. C. 72; 28 L. J. (N. S.) M. C. 66. Shooting into a crowd and a person injured, see *Reg.* v. *Fretwell*, 1 Leigh & Cave, C. C. 443; 10 Law T., N. S. 428.

OFFENCE.	Class of Offenc and Statute or Author
ASSAULTS—*continued.*	
48. Whosoever shall, by any means whatsoever, attempt to choke, suffocate, *or* strangle any other person,—*or* shall, by any means calculated to choke, suffocate, *or* strangle, attempt to render any other person insensible, unconscious, *or* incapable of resistance,—with intent in any of such cases thereby to enable himself *or* any other person to commit, *or* with intent in any of such cases thereby to assist any other person in committing, any indictable offence.	F. 24 & 25 Vict. c. s. 21.
49. Whosoever shall unlawfully and maliciously, by the explosion of gunpowder *or* other explosive substance, burn, maim, disfigure, disable, *or* do any grievous bodily harm to any person.	F. Id. s. 28.
50. Whosoever shall unlawfully and maliciously cause any gunpowder *or* other explosive substance to explode,—*or* send *or* deliver to *or* cause to be taken *or* received by any person any explosive substance *or* any other dangerous *or* noxious thing,—*or* put *or* lay at any place,—*or* cast *or* throw at or upon *or* otherwise apply to any person,—any corrosive fluid *or* any destructive *or* explosive substance, —with intent in any of the cases aforesaid to burn, maim, disfigure *or* disable any person, *or* to do some grievous bodily harm to any person, whether any bodily injury be effected or not.	F. Id. s. 29.
51. Whosoever shall unlawfully and maliciously place *or* throw in, into, upon, against, *or* near any building, ship or vessel any gunpowder *or* other explosive substance, with intent to do any bodily injury to any person, whether *or* not any explosion take place, and whether *or* not any bodily injury be effected.	F. Id. s. 30.
52. *On Magistrates.*] Whosoever shall assault and strike *or* wound any magistrate, officer, *or* other person whatsoever lawfully authorized, in *or* on account of the exercise of his duty in *or* concerning the preservation of any vessel in distress, *or* of any vessel, goods *or* effects wrecked, stranded, *or* cast on shore, *or* lying under water.	M. Id. s. 37.
53. *With intent to commit Felony.*] Whosoever shall assault any person with intent to commit felony [*see Offence* 59, *and title* "Sodomy"]—*or*	M. Id. s. 38.
54. *On Peace Officers.*] Shall assault, resist, or wilfully obstruct any peace officer in the due execution of his duty, *or* any person acting in aid of such officer,—*or*	
55. Shall assault any person with intent to resist *or* prevent the lawful apprehension *or* detainer of himself *or* of any other person for any offence.	

14 *Decisions on* 24 & 25 *Vict. c.* 100, *s.* 20.] A verdict for a common assault may b returned (*Reg.* v. *Taylor*, *Reg.* v. *Caswell*, 20 Law T., N. S. 302;—see also *Reg.* v

	Page, &c. of Formalist.	Where triable.	As to Bail.	Punishment.	If Costs of Prosecution allowed.
45	No. 49, p. 522.	Assizes.	Discretionary.	Penal servitude life—5 years;—*or* imprisonment not exceeding 2 years, with *or* without hard labour (s. 21), and whipping (26 & 27 Vict. c. 44).	Yes.
49	No. 50, p. 522.	Id.	Id.	The same as Offence 50, *infra* (s. 28).	Yes.
50	No. 51, p. 522.	Id.	Id.	Penal servitude life—5 years;—*or* imprisonment for not exceeding 2 years, with *or* without hard labour, solitary confinement, and, if a male under 16, whipping (s. 29).	Yes.
51	No. 52, p. 522.	Sessions.	Id.	Pen. serv. 14—5 years;—*or* impr. not exc. 2 years, with *or* without h. l., s. c., and, if a male under 16, whipping (s. 30).	Yes.
52	No. 53, p. 523.	Id.	Id.	Penal servitude 7—5 years;—*or* imprisonment not exceeding 2 years, with *or* without hard labour (s. 37).	Yes(s. 77).
53, 55	Nos. 54—56, p. 523.	Id.	Id.	Impr. not exc. 2 years, with *or* without h. l. (s. 38);—also fine and sureties for the peace (s. 71). [MEM. *The provision as to peace officers has been extended by* 13 & 14 *Vict. c.* 101, *s.* 9, *to parish and union officers; see Offence* 62].	Id. [and 14 & 15 Vict. c. 55, s. 2, *ante*, p. 984].

Hopford, 11 Cox, C. C. 643; following *Reg.* v. *Smith*, 1 Cox, C. C. 51; and overruling *Reg.* v. *Hewlett*, 1 F. & F. 91).

OFFENCE.	Class of Offence and Statute or Authority.
ASSAULTS—*continued.*	
56. Whosoever shall be convicted upon an indictment of any assault occasioning actual bodily harm.	M. Common Law.
57. Whosoever shall be convicted upon an indictment for a common assault. [MEM. *The costs are allowed only when the parties are bound by recognizance to prosecute or give evidence; see* 14 & 15 *Vict. c.* 55, *s.* 3, *p.* 984.]	M. Common Law.
58. Whosoever shall be convicted of any indecent assault upon any female (*Note* 17). [*See Offence* 104, *tit.* "Carnally knowing Females."]	M. Common Law.
59. Whosoever shall be guilty of any indecent assault upon any male person (*Note* 17). [*An assault must, in the absence of fear* or *fraud to procure consent, be an act done contrary to the consent of the patient; but mere submission by the patient, in ignorance of the moral nature of the act, to an act of indecency done by the agent does not amount to such consent: therefore, where two boys of eight years of age submitted to indecent acts on the part of a grown up man in ignorance of the nature of the acts to be done and done, the man was held to be rightly convicted of an indecent assault* (R. *v.* Lock, 42 *L. J., M. C.* 5).] [*Sodomitical practices, and inciting to them, are also misdemeanors at common law; see* 1 *Russ. by Greaves, 4th ed. p.* 451. *See also tit.* "Sodomy."]	M. 24 & 25 Vict. c. 100, s. 62.
60. Any offender entering any forest, chase *or* purlieu, with intent to hunt, &c. deer, unlawfully beating *or* wounding deerkeeper while in the execution of his powers in seizing gun, dog, &c. which is not delivered up on demand.	F. 24 & 25 Vict. c. 96, s. 16 (*see Note* 78, *post*).
61. Whosoever shall assault any person with intent to rob (save where a greater punishment is provided by this act; *for which see Offences* 313—315, *tit.* "Larceny"). [*See tits.* "Attempts to Murder," "Carnally knowing Females," "Clergymen," "Excise," "Gunpowder," "Servants," "Sodomy."]	F. Id. s. 42.

15 *Decision on Offence* 56.] Upon an indictment for this offence, the defendant may be convicted of a common assault (*Reg.* v. *Oliver*, 30 L. J. (N. S.) M. C. 12; 1 Bell, C. C. 287; *Reg.* v. *Yeadon*, 31 L. J. (N. S.) M. C. 70; 5 L. T., N. S. 329; *Reg.* v. *Guthrie*, 39 L. J. (N. S.) M. C. 95; 22 L. T., N. S. 485; or of an aggravated assault (*Reg.* v. *Sparrow*, 30 L. J. (N. S.) M. C. 43; 1 Bell, C. C. 295; 3 L. T., N. S. 445).

16 *Costs of Prosecution.*] Although these offences (Nos. 56—58) for which the punishment is provided by sects. 47, 52 of 24 & 25 Vict. c. 100, are in fact "Misdemeanors," they are not declared to be so in express terms [*i.e.* "shall be guilty of a misdemeanor"], as in sect. 62 and others; and therefore, it seems costs cannot be allowed under sect. 77, which has the words "misdemeanor indictable under the provisions of this act," which

	Page, &c. of Formalist.	Where triable.	As to Bail.	Punishment.	If Costs of Prosecution allowed.
56	No. 58, p. 524.	Sessions.	Discretionary.	Pen. serv. 5 yrs.;—*or* impr. not exc. 2 yrs., with *or* without h. l. (24 & 25 Vict. c. 100, s. 47).	No [*but see Note* 16].
57	No. 58, p. 524.	Id.	Id.	Impr. not exc. 1 yr., with *or* without h. l. (Id.)	No [*but see decisions in Note* 15].
58	No. 59, p. 524.	Id.	Compulsory.	Impr. not exc. 2 yrs., with *or* without h. l. (Id. s. 52).	No (*see Note* 16).
59	Nos. 60—63, p. 524.	Id.	Discretionary.	Pen. serv. 10—5 yrs.;—*or* impr. not exc. 2 yrs., with *or* without h. l. (s. 62).	Yes (s. 77, *Note* 16).
60	No. 64, p. 524.	Id.	Id.	Impr. not exc. 2 yrs., with *or* without h. l., s. c., and, if a male under 16, w. (s. 16).	Yes.
61	No. 65, p. 524.	Id.	Id.	Pen. serv. 5 yrs.;—*or* impr. not exc. 2 yrs., with *or* without h. l. and s. c. (s. 42).	Yes.

is advisedly different to the language of 24 & 25 Vict. c. 96, s. 121; 24 & 25 Vict. c. 97, s. 77; 24 & 25 Vict. c. 98, s. 54,—"indictable misdemeanor against this act." It is, however, the practice of the Central Criminal Court to allow costs in Offence 56, under the authority of 14 & 15 Vict. c. 55, s. 3, *ante*, p. 984, as a common assault. As respects a common assault, see Mem. under Offence 57, first column.

17 *Vexatious Indictments Act, applicable—Consent of Female in certain Cases.*] By 22 & 23 Vict. c. 17, s. 1 (p. 876), an indictment cannot be preferred for "any indecent assault," without a previous inquiry before a justice, or the order of a judge, &c. By the 43 & 44 Vict. c. 45 (The Criminal Law Amendment Act, 1880), s. 2, it is enacted that "It shall be no defence to a charge or indictment for an indecent assault on a

OFFENCE.	Class of Off and Statute or Aut
ASSAULTS—*continued.*	
62. *On Parish and Union Officers.*] Assaulting any officer of a workhouse *or* relieving officer in the due execution of his duty, *or* any person acting in aid of such officer—[*or* any person included under the word "officer" in the 4 & 5 Will. 4, c. 76 (for which see *Note* 370, Vol. I. p. 681),—*or* any other person acting in his aid, 14 & 15 Vict. c. 105, s. 18].	M. 13 & 14 c. 101, s.
63. Assaulting any special *or* county constable,—*or* promoting *or* encouraging another so to do.	M. 1 & 2 Will. 4, s. 11; and 2 & 3 c. 93, s. 8.
64. Any person liable to be apprehended under the provisions of 14 & 15 Vict. c. 19, assaulting *or* offering any violence to any person by law authorized to apprehend and detain him,—*or* to any person acting in his aid and assistance (*Note* 18).	M. 14 & 15 Vi c. 19, s. 12.
ATTEMPTS TO MURDER (*Note* 19).	
65. *By Poison.*] Whosoever shall administer to *or* cause to be administered to *or* to be taken by any person any poison *or* other destructive thing,—*or* shall by any means whatsoever wound *or* cause any grievous bodily harm to any person,—with intent in any of the cases aforesaid to commit murder (*Note* 19) [*see* Reg. *v.* Fretwell, 1 *Leigh & Cave, C. C.* 161; 6 *Law T., N. S.* 333].	F. 24 & 25 Vict. c. s. 11.
66. *By Explosions.*] Whosoever, by the explosion of gunpowder *or* other explosive substance, shall destroy *or* damage any building, with intent to commit murder.	F. Id. s. 12.
67. *By setting Fire to Ships.*] Whosoever shall set fire to any ship *or* vessel *or* any part thereof,—*or* any part of the tackle, apparel *or* furniture thereof, *or* any goods or chattels being therein,—*or* shall cast away *or* destroy any ship *or* vessel, with intent in any of such cases to commit murder.	F. Id. s. 13.

young person under the age of thirteen to prove that he or she consented to the a indecency." On an indictment for an indecent assault, the answer of the prosecutri questions put to her on cross-examination as to particular acts of connexion with per named to her, other than the prisoner is final, and the party questioning is bo thereby, and if her answer be a denial, the persons named cannot be called to cont dict her (*Reg.* v. *Holmes*, 41 L. J., M. C. 12).

18 *Apprehension of Offenders under* 14 & 15 *Vict. c.* 19.] By 14 & 15 Vict. c. 19 10, any person whatsoever may apprehend any person found committing any offe against this act, and convey him, or deliver him to some constable or other peace offi in order to his being conveyed before a justice. Several sections of this act which crea other offences are repealed, but have been re-enacted in the 24 & 25 Vict. cc. 96, 100, which contain powers to apprehend offenders generally (see *Notes* 1,78,90). T

	Page, &c. of Formulist.	Where triable,	As to Bail.	Punishment.	If Costs of Prosecution allowed.
62	No. 65, p. 524.	Sessions.	Discretionary.	The same as provided for an assault upon a peace officer (13 & 14 Vict. c. 101, s. 9, —*i. e.*, impr. not exc. 2 years, *as Offences* 53—55, *supra*, *which is that provided by* 9 *Geo.* 4, *c.* 31, *s.* 25, *still applicable*).	Yes (see s. 9).
63	No. 66, p. 525.	Id.	Id.	Imp. and h. l. not exc. 2 yrs.,—also fine and sureties to keep the peace.	Yes (14 & 15 Vict. c. 55, s. 2).
64	No. 67, p. 525.	Id.	Id.	Imprisonment and hard labour, not exceeding 3 years (s. 12).	Yes (s. 14).
65	No. 68, p. 525.	Assizes.	Discretionary.	Pen. serv. life—5 yrs.; —*or* impr. not exc. 2 yrs., with *or* without h. l. and s. c. (s. 11) [*see Note* 13, *ante*, *p.* 1027, *as to unlawful wounding*].	Yes.
66	No. 69, p. 525.	Id.	Id.	The same (s. 12).	Yes.
67	No. 70, p. 525.	Id.	Id.	The same (s. 13).	Yes.

Offence 64 will, therefore, now only apply to persons apprehended in the night [which by 14 & 15 Vict. c. 19, s. 13, is the same as in burglary, *i. e.* between 9 p.m. and 6. a.m., 7 Will. 4 & 1 Vict. c. 86, s. 4] for *any* indictable offence, under a power given by sect. 11. noticed *ante*, p. 913, which remains unrepealed.

19 "ATTEMPTS TO MURDER:" *Apprehension of certain Offenders without Warrant—Search for Gunpowder, &c.—Attempts to commit Suicide not within Act.*] See *Note* 1, *ante*, p. 1014, and *Note* 74, tit. "*Gunpowder*," *post*, applicable here. When the complainant is under sixteen, see *ante*, p. 965, as to directing the prosecution. Sections 11 and 15 (Offences 65 and 69) do not apply to attempts by a person to commit suicide, which is not murder, for the sections apply to attempts on other persons (*Reg.* v. *Burgess*, 32 L. J. (N. S.) M. C. 55; 1 Leigh & Cave, C. C. 258).

OFFENCE.	Class of Offe and Statute or Auth
ATTEMPTS TO MURDER—*continued.*	
68. *By Shooting, &c.*] Whosoever shall attempt to administer to *or* shall attempt to cause to be administered to *or* to be taken by any person any poison *or* other destructive thing,—*or* shall shoot at any person,—*or* shall by drawing a trigger *or* in any other manner attempt to discharge any kind of loaded arms at any person,—*or* shall attempt to drown, suffocate, *or* strangle any person,—with intent, in any of the cases aforesaid, to commit murder, whether any bodily injury be effected *or* not.	F. 24 & 25 Vict. s. 14.
69. *By other means.*] Whosoever shall, by any means other than those specified in any of the preceding sections of this act, attempt to commit murder (*Note* 19).	F. Id. s. 15
ATTEMPTS TO COMMIT OTHER CRIMES (*Note* 20).	
70. *By Chloroform, &c. to assist in any Offence.*] Whosoever shall unlawfully apply *or* administer to *or* cause to be taken by,—*or* attempt to apply *or* administer to *or* attempt to cause to be administered to *or* taken by,—any person, any chloroform, laudanum, *or* other stupefying *or* overpowering drug, matter, *or* thing, with intent in any of such cases thereby to enable himself *or* any other person to commit, *or* with intent in any of such cases thereby to assist any other person in committing, any indictable offence.	F. 24 & 25 Vict. s. 22.
71. To commit a felony, whether statutable *or* at common law [*see* Reg. *v.* Cheeseman, 31 *L. J.* (*N. S.*) *M. C.* 89; 1 *Leigh & Cave, C. C.* 140].	M. Common La
72. To commit a misdemeanor, whether statutable *or* at common law [*see* Rodrick's Case, 7 *Car. & P.* 795].	Id.
[*See further tit.* "Gunpowder;" *attempt to commit infamous crime, see* "Sodomy."]	
BAILEE, Larceny by. [*See Offence* 289, *tit.* "Larceny."]	

20 "ATTEMPTS TO COMMIT OTHER CRIMES." *Persons may be found guilty of Attem Charges of Felony, and vice versâ.*] By 14 & 15 Vict. c. 100, s. 9 (unrepealed), if, o trial of a person charged with any felony or misdemeanor it shall appear to the upon the evidence that the defendant did not complete the offence charged, he is n be acquitted, but the jury may find him guilty of the attempt, and he is liable t punished as if convicted of the felony or misdemeanor charged:—and by sect. 12 (u pealed), "if, upon the trial of any person for any misdemeanor it shall appear that facts given in evidence amount in law to a felony, such person shall not by reason the be entitled to be acquitted of such misdemeanor; and no person tried for such mis meanor shall be liable to be afterwards prosecuted for felony under the same fa unless the court before which such trial may be had shall think fit, in its discretion,

Page, &c. of Formulist.	Where triable.	As to Bail.	Punishment.	If Costs of Prosecution allowed.
No. 71, p. 525.	Assizes.	Discretionary.	Penal servitude life—5 years;—*or* imprisonment not exceeding 2 years, with *or* without hard labour and solitary confinement (s. 14).	Yes.
No. 72, p. 525.	Id.	Id.	The same (s. 15).	Yes.
No. 73, p. 526.	Assizes.	Discretionary.	Penal servitude life—5 years;—*or* imprisonment not exceeding 2 years, with *or* without hard labour (s. 22). [*See also Offence* 48, *tit.* "Assaults."]	Yes.
Nos. 74, 75, p. 526.	Sessions.	Id.	Fine *or* imprisonment, *or* both [and hard labour, 3 Geo. 4, c. 114].	Yes (14 & 15 Vict. c. 55, s. 2).
No. 76, p. 526.	Id.	Id.	Fine, *or* imprisonment, *or* both.	No.

discharge the jury from giving any verdict upon such trial, and to direct such person to be indicted for felony, in which case such person shall be dealt with in all respects as if he had not been put upon his trial for such misdemeanor." See *Reg.* v. *M'Pherson*, 35 L. J. (N. S.) M. C. 134; 1 Dears. & B. C. C. 197; *Reg.* v. *Bain*, 31 L. J. (N. S.) M. C. 53; 5 L. T., N. S. 647; and *Reg.* v. *Wyatt & Hopgood*, 39, L. J. (N. S.) M. C. 83; 21 L. T., N. S. 678. In order to convict of an attempt to commit larceny, it must appear that there was property in the place where the attempt is made that could be stolen (*Reg.* v. *Collins*, 1 Leigh & Cave C. C. 471; 10 L. T., N. S. 581), and the indictment need not specify the property (*Reg.* v. *Johnson*, 34 L. J. (N. S.) M. C. 24; 1 Leigh & Cave C. C. 489). There should have been a count in the indictment in *Reg.* v. *Collins*, describing the act as being "with intent to steal."

OFFENCE.	Class of Offe and Statute or Auth
BALLOT ACT.	
72*a*. Every person who (1) Forges *or* fraudulently defaces *or* fraudulently destroys any nomination paper, *or* delivers to the returning officer any nomination paper knowing the same to be forged; *or* (2) Forges *or* counterfeits *or* fraudulently defaces or fraudulently destroys any ballot paper, *or* the official mark on any ballot paper; *or* (3) Without due authority supplies any ballot paper to any person; *or* (4) Fraudulently puts into any ballot box any paper other than the ballot paper which he is authorized by law to put in; *or* (5) Fraudulently takes out of the polling station any ballot paper; *or* (6) Without due authority destroys, takes, opens, *or* otherwise interferes with any ballot box *or* packet of ballot papers then in use for the purposes of the election. [*See tit.* "Personation."]	M. 35 & 36 Vict s. 3.
72*b*. Attempting to commit any such offence. [MEM. *In any indictment or other prosecution for an offence in relation to the nomination papers, ballot boxes, ballot papers, and marking instruments at an election, the property in such papers, boxes and instruments may be stated to be in the returning officer at such election as well as the property in the counterfoils* (*s.* 3).]	
BANKERS.	
73. Any person, being a member of any banking copartnership within the meaning of 1 & 2 Vict. c. 96,—*or* of any other banking copartnership consisting of more than six persons, formed under 3 & 4 Will. 4, c. 98,—stealing *or* embezzling any money, goods, effects, bills, notes, securities *or* other property of *or* belonging to any such copartnership, or 74. Committing any fraud, forgery, crime *or* offence, against *or* with intent to injure *or* defraud such copartnership. [*See tit.* "Fraudulent Trustees."]	F. or M., as the may be.* 3 & 4 c. 111, s. 2 (act perpetual by 5 Vict. c. 85).
BANKING SHARES.	
75. Every person, whether principal, broker, *or* agent, wilfully inserting in any contract, agreement, *or* other token [for the sale *or* transfer of any shares, &c. in any joint stock banking company] any false entry of the numbers, *or* any name other than that of the person in whose name the shares, &c. stand.	M. 30 Vict. c. 29,
BANK-NOTES, &c., Forging, *see Offences* 219—225, *tit.* "Forgery;" Stealing, 301, *tit.* "Larceny."	

	Page, &c. of Formalist.	Where triable.	As to Bail.	Punishment.	If Costs of Prosecution allowed.
	..	Sessions.	Compulsory.	If a returning officer, *or* an officer *or* clerk in attendance at a polling station, imprisonment not exceeding 2 years, with or without hard labour. If any other person, imprisonment not exceeding 6 months, with *or* without hard labour.	No. (*It is remarkable that no provision is made for the costs of prosecution.*)
	..	..	..	Liable to indictment in the name of any officer of the copartnership, and to be convicted as if offender had not been a member. *F. in Offence 73; F. or M. as the case may be in Offence 74.	..
75	No. 77, p. 526.	Sessions.	Compulsory.	Fine, *or* imprisonment, *or* both. [MEM. *By s. 2, registered shareholders may see list of shareholders during business hours, from* 10 *to* 4 *o'clock.*]	No.

OFFENCE.	Class of Offence and Statute or Authority.
BANKRUPTS (*Notes* **21, 22**).	
(*Punishment of Fraudulent Debtors.*)	
Any person adjudged bankrupt,—*or* any person whose affairs are liquidated by arrangement in pursuance of "The Bankruptcy Act, 1869,"—committing the offences following, *i. e.*,—	
76. If he does not, to the best of his knowledge and belief, fully and truly discover to the trustee administering his estate for the benefit of his creditors all his property, real and personal, and how, and to whom, and for what consideration, and when he disposed of any part thereof, except such part as has been disposed of in the ordinary way of his trade (if any), *or* laid out in the ordinary expense of his family, unless the jury is satisfied that he had no intent to defraud:* (*See opposite*).	M. 32 & 33 Vict. c. 62, s. 11, sub-s. 1.
77. If he does not deliver up to such trustee, *or* as he directs, all such part of his real and personal property as is in his custody *or* under his control, and which he is required by law to deliver up, unless the jury is satisfied that he had no intent to defraud:*	Id. sub-s. 2.
78. If he does not deliver up to such trustee, *or* as he directs, all books, documents, papers, and writings in his custody *or* under his control relating to his property *or* affairs, unless the jury is satified that he had no intent to defraud:*	Id. sub-s. 3.

21 "BANKRUPTS:" *Repeal of Acts prior to* 1869.] "The Bankruptcy Repeal and Insolvent Court Act, 1869," 32 & 33 Vict. c. 83, s. 30, repeals, amongst other acts, the acts of 12 & 13 Vict. c. 106, and 24 & 25 Vict. c. 134 (formerly cited in this title and containing various bankruptcy offences), in the following terms:—"The enactments described in the schedule to this act are hereby repealed;—but this repeal shall not affect the past operation of any such enactment, or revive any court, office, jurisdiction, authority, or thing abolished by any such enactment, or affect the validity or invalidity of anything done or suffered before the commencement of this act, or any right, title, obligation, or liability accrued or restriction imposed before the commencement of this act, by or under any such enactment, or affect any principle or rule of law derived from any enactment contained in the first and secondly mentioned acts in the schedule to this act; nor shall this repeal interfere with the prosecution or affect the course of any legal proceeding pending in bankruptcy or otherwise under any such enactment before the commencement of this act; but subject to the provisions of 'The Bankruptcy Act, 1869,' and 'The Debtors Act, 1869,' such proceedings shall be prosecuted as if this act had not passed; nor shall this repeal interfere with the institution or prosecution of any proceedings in respect of any offence committed against, or any penalty or forfeiture incurred under, any enactment hereby repealed." "The Debtors Act, 1869," here referred to, is the 32 & 33 Vict. c. 62, defining the offences in this title, and "The Bankruptcy Act, 1869," is the 32 & 33 Vict. c. 71, which is not specially incorporated with the other, although the terms used in the latter apply to the former. See *Note* **22** as to prosecution.

22 *Prosecution on Report of Trustee in Bankruptcy—Expenses of Prosecutions—Bail—Application of Vexatious Indictments Act to Offences—Guilty intent necessary—Form of Indictment.*] By 32 & 33 Vict. c. 62, s. 16, "where a trustee in any bankruptcy reports to any court exercising jurisdiction in bankruptcy that in his opinion a bankrupt has been guilty of *any offence* under this act, or where the court is satisfied upon the representation of any creditor or member of the committee of inspection that there is ground to believe that the bankrupt has been guilty of *any offence* under this act, the

	Page, &c. of Formalist.	Where triable.	As to Bail.	Punishment.	If Costs of Prosecution allowed.
				[MEM. *The* 32 & 33 *Vict. cc.* 62, 71, *came into force on the* 1*st January*, 1870.]	
76	..	Sessions (see *Note* 23).	Discretionary when prosecution ordered by Bankruptcy Court; Compulsory when not so ordered (see s. 17 in *Note* 23).	Imprisonment for any time not exceeding 2 years, with *or* without h. l. (s. 11). [MEM. *Punishment under the act is cumulative* (*see s.* 23 *in Note* 24).] *[*See s.* 18 *in Note* 23 *as to guilty intent.*]	Yes, if prosecution ordered by Court of Bankruptcy. [*See Note* 23.]
..	..	Id.	Id.		Id.
..	..	Id.	Id.	The same.	Id.

court shall, if it appears to the court that there is a reasonable probability that the bankrupt may be convicted, order the trustee to prosecute the bankrupt for *such offence*." By sect. 17, "where the prosecution of the bankrupt *under this act* is ordered by any court [otherwise the judge is unable to allow the costs; *Reg.* v. *Thomas*, 11 Cox, C. C. 535], then, on the production of the order of the court, the expenses of the prosecution shall be allowed, paid, and borne as expenses of prosecutions for felony are allowed, paid, and borne," As to when bail is "discretionary" or "compulsory" with the justices in certain misdemeanors, see 11 & 12 Vict. c. 42, s. 23, *ante*, pp. 977, 978. Although that act provides that it is discretionary when the costs of prosecution "may be allowed out of the county rate," this enactment of 32 & 33 Vict. c. 62, s. 17, annexes a condition that the prosecution must be ordered by the Bankruptcy Court: it follows that unless that condition is complied with the bail is "compulsory," and when the prosecution is so ordered it is "discretionary." Bail in the case of a *felony*, which is regulated solely by 11 & 12 Vict. c. 42. s. 23, is unaffected by the 32 & 33 Vict. c. 62, s. 17; but the allowance of costs in such a case, like in misdemeanors, will be wholly regulated by the latter act, and not the 7 Geo. 4, c. 64, s. 22, *ante*, p. 983. By sect. 18, "every misdemeanor under . . . this act shall be deemed to be an offence within and subject to the provisions of the act of the session of the twenty-second and twenty-third years of the reign of her present Majesty, chapter seventeen, intituled 'An Act to prevent vexatious indictments for certain misdemeanors' [see this act of 22 & 23 Vict. c. 17, *ante*, pp. 875, 876, and the amending act of 30 & 31 Vict. c. 35, s. 1, p. 877, which, apparently in error, is omitted to be referred to in this section, but being the latest in point of time, it is doubtful whether the provisions of 30 & 31 Vict. c. 35, apply. See *Reg.* v. *Bell*, 12 Cox, C. C. 37, M. Smith, J.];—and when any person is charged with any such offence before any justice or justices, such justice or justices shall take into consideration any evidence adduced before him or them tending to show that the act charged was not committed with a guilty intent." By sect. 19, "in an indictment for an offence under this act it shall be sufficient to set forth the substance of the offence charged in the words of this act, specifying the offence or as

OFFENCE.	Class of Offence and Statute or Authority.
BANKRUPTS—*continued.*	
(*Punishment of Fraudulent Debtors*)—continued.	
79. If after the presentation of a bankruptcy petition against him *or* the commencement of the liquidation,*—*or* within four months next before such presentation *or* commencement,—he conceals any part of his property to the value of ten pounds or upwards, *or* conceals any debt due to *or* from him, unless the jury is satisfied that he had no intent to defraud:†	M. 32 & 33 Vict. c. 11, sub-s.
80. If after the presentation of a bankruptcy petition against him *or* the commencement of the liquidation,*—*or* within four months next before such presentation or commencement,—he fraudulently removes any part of his property of the value of ten pounds or upwards:†	Id. sub-s. 5.
81. If he makes any material omission in any statement relating to his affairs, unless the jury is satisfied that he had no intent to defraud:†	Id. sub-s. 6.
82. If, knowing *or* believing that a false debt has been proved by any person under the bankruptcy *or* liquidation, he fail for the period of a month to inform such trustee as aforesaid thereof:†	Id. sub-s. 7.
82a. If after the presentation of a bankruptcy petition against him *or* the commencement of the liquidation* he prevents the production of any book, document, paper *or* writing affecting *or* relating to his property *or* affairs, unless the jury is satisfied that he had no intent to conceal the state of his affairs *or* to defeat the law:†	Id. sub-s. 8.
83. If after the presentation of a bankruptcy petition against him *or* the commencement of the liquidation,* *or* within four months next before such presentation *or* commencement, he conceals, destroys, mutilates, *or* falsifies *or* is privy to the concealment, destruction, mutilation *or* falsification of any book *or* document affecting *or* relating to his property *or* affairs, unless the jury is satisfied that he had no intent to conceal the state of his affairs *or* to defeat the law:†	Id. sub-s. 9.
84. If after the presentation of a bankruptcy petition against him *or* the commencement of the liquidation,* *or* within four months next before such presentation *or* commencement,—he makes *or* is privy to the making of any false entry in any book *or* document affecting *or* relating to his property *or* affairs, unless the jury is satisfied that he had no intent to conceal the state of his affairs *or* to defeat the law:†	Id. sub-s. 10.

near thereto as circumstances admit, without alleging or setting forth any debt, act bankruptcy, trading, adjudication, or any proceedings in, or order, warrant, or document of any court acting under 'The Bankruptcy Act, 1869.'"

23 *Quarter Sessions to have Jurisdiction in respect to Offences under Act.*] By 32 & 33 Vict. c. 62, s. 20, "so much of the act of the session of the fifth and sixth years of her Majesty's reign (chapter thirty-eight), 'to define the jurisdiction of justices

	Page, &c. of Formalist.	Where triable.	As to Bail.	Punishment.	If Costs of Prosecution allowed.
9	..	Sessions (see *Note* 23).	Discretionary when prosecutions ordered by Bankruptcy Court; Compulsory when not so ordered (see s. 17, in *Note* 22).	Impr. for any time not exc. 2 yrs., with *or* without h. l. (s. 11).	Yes, if prosecution ordered by Court of Bankruptcy. [*See Note* 22.]
4				*[MEM. *The "commencement of the liquidation" is, by "The Bankruptcy Act, 1869," 32 & 33 Vict. c. 71 (the expressions in which are, by s. 3 of 32 & 33 Vict. c. 62, to have the same meaning), s. 125, sub-s. 4, to "be deemed to have commenced as from the date of the appointment of the trustee."*]	
..	..	Id.	Id.		Id.
..	..	Id.	Id.		Id.
..	..	Id.	Id.	†[*See s.* 18 *in Note* 22, *as to guilty intent.*]	Id.
..	..	Id.	Id.	The same.	Id.
.	..	Id.	Id.	The same.	Id.
..	..	Id.	Id.	The same.	Id.

general and quarter sessions of the peace,' as excludes from the jurisdiction of justices and recorders at sessions of the peace or adjournments thereof the trial of persons for offences against any provision of the laws relating to bankrupts is hereby repealed as from the passing of this act [see this act, paragraph 13, *ante*, p. 973];—and any offence under this act shall be deemed to be within the jurisdiction of such justices and recorders."

OFFENCE.	Class of Off and Statute or Aut
BANKRUPTS—*continued.*	
(*Punishment of Fraudulent Debtors*)—continued.	
85. If after the presentation of a bankruptcy petition against him *or* the commencement of the liquidation,* *or* within four months next before such presentation *or* commencement,—he fraudulently parts with, alters, *or* makes any omission, *or* is privy to the fraudulently parting with, altering, *or* making any omission in any document affecting *or* relating to his property *or* affairs:†	M. 32 & 33 Vic s. 11, sub-s.
86. If after the presentation of a bankruptcy petition against him *or* the commencement of the liquidation,* *or* at any meeting of his creditors within four months next before such presentation *or* commencement, he attempts to account for any part of his property by fictitious losses *or* expenses:†	Id. sub-s. 1
87. If within four months next before the presentation of a bankruptcy petition against him *or* the commencement of the liquidation,*, he by any false representation *or* other fraud, has obtained any property on credit and has not paid for the same:† [*see also Offence* 92].	Id. sub-s. 1
88. If within four months next before the presentation of a bankruptcy petition against him *or* the commencement of the liquidation,* he, being a trader, obtains, under the false pretence of carrying on business and dealing in the ordinary way of his trade, any property on credit and has not paid for the same, unless the jury is satisfied that he had no intent to defraud:†	Id. sub-s. 14
89. If within four months next before the presentation of a bankruptcy petition against him *or* the commencement of the liquidation,* he, being a trader, pawns, pledges, or disposes of otherwise than in the ordinary way of his trade any property which he has obtained on credit and has not paid for, unless the jury is satisfied that he had no intent to defraud:†	Id. sub-s. 15.
90. If he is guilty of any false representation *or* other fraud for the purpose of obtaining the consent of his creditors *or* any of them to any agreement with reference to his affairs *or* his bankruptcy *or* liquidation:†	Id. sub-s. 16.
91. *Absconding with Property.*] If any person who is adjudged a bankrupt *or* has his affairs liquidated by arrangement after the presentation of a bankruptcy petition against him *or* the commencement of the liquidation,* *or* within four months before such presentation *or* commencement quits England and takes with him,—*or* attempts *or* makes preparation for quitting England and for taking with him,—any part of his property to the amount of twenty pounds or upwards, which ought by law to be divided amongst his creditors (unless the jury is satisfied that he had no intent to defraud).†	F. Id. s. 12.

24 *Punishments under Act cumulative.*] By 32 & 33 Vict. c. 62, s. 23, "where a person is liable under any other act of parliament or at common law to any punishment or penalty for any offence made punishable by this act, such person may be p

Page, &c. of Formulist.	Where triable.	As to Bail.	Punishment.	If Costs of Prosecution allowed.
..	Sessions (see *Note* 23).	Discretionary when prosecution ordered by Bankruptcy Court; Compulsory when not so ordered (see s. 17 in *Note* 22).	Impr. for any time not exc. 2 yrs., with *or* without h. l. (s. 11). *[*As to the "commencement of the liquidation," see the "*Mem.*" to Offences*, 79—84.]	Yes, if prosecution ordered by Court of Bankruptcy. [*See Note* 22.]
..	Id.	Id.	†[*See s.* 18 *in Note* 22, *as to guilty intent.*]	
.. ..	Id.	Id.	The same.	Id.
.. ..	Id.	Id.	The same.	Id.
.. ..	Id.	Id.	The same.	Id.
..	Id.	Id.	The same.	Id.
.. ..	Id.	Discretionary (11 & 12 Vict. c. 42, s. 23, *ante*, p. 977).	The same (s. 12). [*Mem. Punishment under this act cumulative* (s. 23); *see Note* 24.]	Id.

ceeded against under such other act of parliament or at common law or under this act, so that he be not punished twice for the same offence."

OFFENCE.	Class of Offence and Statute or Authority.
BANKRUPTS—*continued.*	
(*Punishment of Fraudulent Debtors*)—continued.	
Fraudulently obtaining Credit, &c.] Any person committing the following offences:	
92. If in incurring any debt *or* liability he has obtained credit under false pretences, *or* by means of any other fraud: [*And see Offence* 195, *tit.* "False Pretences."]	M. 32 & 33 Vict. c. 62, s. 13, sub-s. 1.
93. If he has, with intent to defraud his creditors, or any of them, made *or* caused to be made any gift, delivery *or* transfer of *or* any charge on his property:	Id. sub-s. 2.
94. If he has, with intent to defraud his creditors, concealed *or* removed any part of his property since *or* within two months before the date of any unsatisfied judgment *or* order for payment of money obtained against him.	Id. sub-s. 3.
95. *Creditor making a false Claim, &c.*] If any creditor in any bankruptcy *or* liquidation by arrangement *or* composition with creditors in pursuance of "The Bankruptcy Act, 1869," wilfully and with intent to defraud makes any false claim, *or* any proof, declaration, *or* statement of account which is untrue in any material particular.	M. Id. s. 14.
BAWDY HOUSE. *See tit.* "Disorderly Houses."	
BESTIALITY. *See tit.* "Sodomy."	
BETTING HOUSES. *See tit.* "Gaming Houses."	
BIGAMY (*Note* 25).	
96. Whosoever, being married, shall marry any other person during the life of the former husband *or* wife, whether the second marriage shall have taken place in England *or* Ireland *or* elsewhere. [MEM. *Although the second marriage is void as being within the prohibited degrees, the parties so marrying will be guilty of bigamy.* Reg. *v.* Allen, 41 L. J., M. C. 97.]	F. 24 & 25 Vict. c. 100, s. 57.
BLASPHEMY.	
97. Publishing blasphemous libels [1 *Hawk. c.* 5, *s.* 2; *c.* 3, *ss.* 1, 3.] [*See stat.* 9 & 10 *Will.* 3, *c.* 32, *ss.* 1, 2 *and* 3 *hereon.*]	M. Common Law.
BRIBERY. *See tit.* "Elections (Parliamentary)."	
98. Receiving *or* offering any undue reward, by *or* to any person whatsoever, whose ordinary profession or business relates to the administration of public justice, *or* public government [*or* any other person, *Arch. Cr. Pl.* 774; 1 *Hawk. c.* 27, *s.* 2, *p.* 415, 8*th ed. by Curwood*; 3 *Inst.* 147]. [*See further, tit.* "Elections."]	M. Common Law.

25 "BIGAMY:" *Venue—Exceptions to Offence of Bigamy.*] By this section (57) it is provided, that "any such offence may be dealt with, inquired of, tried, determined and punished in any county or place in England or Ireland where the offender shall be

	Page, &c. of Formalist.	Where triable.	As to Bail.	Punishment.	If Costs of Prosecution allowed.
3 5	..	Sessions (see *Note* 23).	Discretionary when prosecution ordered by Bankruptcy Court; Compulsory when not so ordered (see s. 17, in *Note* 23).	Impr. for any time not exc. one year, with *or* without hard labour (s. 13). [*See Note* 24 *as to cumulative punishment.*]	Yes; if prosecution ordered by Court of Bankruptcy [See *Note* 23.]
..	..	Id.	Id.	The like imprisonment.	Id.
96	No. 90, p. 526.	Assizes.	Discretionary.	Penal servitude 7—5 years;—*or* imprisonment not exceeding 2 years, with or without hard labour (s. 57).	Yes.
97	No. 91, p. 527.	Assizes.	Compulsory.	Fine and imprisonment (*Arch. Cr. Pl. by Bruce*, 16*th ed. p.* 710).	No.
98	Nos. 92—94, p. 527.	Assizes.	Compulsory.	Fine and imprisonment (*Arch. Cr. Pl. by Bruce*, 16*th ed. p.* 774).	No.

apprehended or be in custody, in the same manner in all respects as if the offence had been actually committed in that county or place [*i. e.*, where the second marriage took place]:—provided that nothing in this section contained shall extend to any second

OFFENCE.	Class of Offe and Statute or Auth
BRIDGES, Pulling down, &c. *See Offence* 359, *tit.* "Malicious Injuries."	
BROKER, Converting property. *See tits.* "Agents," "Fraudulent Trustees."	
BUOY, Cutting away. *See Offence* 366, *tit.* "Malicious Injuries."	
BURGLARY (*Note* 26).	
99. Whosoever shall be convicted of the crime of burglary,—*i. e.*, the breaking and entering the dwelling-house of another in the night, with intent to commit felony therein (*Note* 27).	F. Common L
100. Whosoever shall enter the dwelling-house of another, with intent to commit any felony therein,—*or* being in such dwelling-house shall commit any felony therein,—*and* shall in either case break out of the said dwelling-house in the night (*Note* 27).	F. 24 & 25 Vict. s. 51.
101. Whosoever shall enter any dwelling-house in the night, with intent to commit any felony therein.	F. Id. s. 54.
CANAL, Destroying Works of. *See Offences* 356, 357, 359, *tit.* "Malicious Injuries."	
CARNALLY KNOWING FEMALES.	
102. Whosoever shall unlawfully and carnally know and abuse any girl under the age of twelve years [*see Note* 28 *for definition of carnal knowledge, and case of* Reg. *v.* Beale, *in Note* 17, *ante*, p. 1031].	F. 38 & 39 Vict. c. s. 3.
103. Whosoever shall unlawfully and carnally know and abuse any girl being above the age of twelve years and under the age of thirteen years [*see Note* 28 *for definition of carnal knowledge and case of* Reg. *v.* Johnson *and* Reg. *v.* Guthrie, *in Note* 17, *ante*, p. 1031].	M. Id. s. 4.
104. Whosoever shall be convicted of any attempt to have carnal knowledge of any girl under twelve years of age [*see Notes* 12 *and* 17, *ante*, pp. 1026, 1031, *and Offence* 58]. [*See further, tit.* "Women."] [MEM. *The* 38 *&* 39 *Vict. c.* 94, *which by sections* 3 *&* 4 *extends the age of the female, has not dealt with section* 52 *of the* 24 *&* 25 *Vict. c.* 100, *which relates to the attempt to commit the two preceding offences; and therefore the age remains at* 12 *years.*]	M. Common Law

marriage contracted elsewhere than in England and Ireland by any other than a s
ject of her Majesty [*Reg.* v. *Topping*, 25 L. J. (N. S.) M. C. 72; 1 Dears. C. C. 6
or to any person marrying a second time whose husband or wife shall have been c
tinually absent from such person for the space of seven years then last past, and sl
not have been known by such person to be living within that time [see *Reg.* v. *Bri*
26 L. J. (N. S.) M. C. 7; 1 Dears. & B. 98; *Reg.* v. *Horton*, 12 Cox. C. C. 670,
Reg. v. *Lumley*, 38 L. J. (N. S.) M. C. 86; 20 Law T., N. S. 454; the burden
proving which being on the prosecution; *Reg.* v. *Heaton*, 3 F. & F. 819, *Wightman*,
confirmed in *Reg.* v. *Curgenwen*, 35 L. J. (N. S.) M. C. 58; 13 Law T., N. S. 3
Reg. v. *Jones*, 21 Law T., N. S. 396], *or* shall extend to any person who, at the time

	Page, &c. of Formulist.	Where triable.	As to Bail.	Punishment.	If Costs of Prosecution allowed.
0	No. 95, p. 527.	Assizes.	Discretionary.	Pen. serv. life—5 yrs.; —*or* impr. not exc. 2 yrs., with *or* without h. l. and s. c. (24 & 25 Vict. c. 96, s. 52).	Yes.
9	Nos. 96—98, p. 528.	Id.	Id.	The same (s. 52).	Yes.
1	No. 99, p. 528.	Sessions.	Id.	Pen. serv. 7—5 years; —*or* impr. not exc. 2 years, with *or* without hard labour and solitary confinement (s. 54).	Yes.
2	No. 100, p. 528.	Assizes.	Discretionary.	Pen. serv. life—5 years; —*or* impr. not exc. 2 yrs., with *or* without hard labour (s. 3).	Yes.
3	No. 101, p. 528.	Sessions.	Id.	Imprisonment not exc. 2 years, with *or* without hard labour (s. 4).	Yes (s. 77, and 14 & 15 Vict. c. 55, s. 2).
4	No. 102, p. 528.	Id.	Compulsory.	Imprisonment not exc. 2 years, with *or* without hard labour (24 & 25 Vict. c. 100, s. 52).	No (see *Note* 16, *ante*, p. 1030).

such second marriage, shall have been divorced from the bond of the first marriage, or by any person whose former marriage shall have been declared void by the sentence of any court of competent jurisdiction." As to marriages within the prohibited degrees of consanguinity or affinity, see 5 & 6 Will. 4, c. 54, ss. 1, 2, and as to marriage by banns, see *Reg.* v. *Clarke*, 16 Law T., N. S. 529.

26 "BURGLARY:" *Apprehension of Offenders without Warrant.*] *Note* 78, to tit. "*Larceny*," *post*, which is applicable here.

27 *Night-time—Building within Curtilage.*] For the purposes of the 24 & 25 Vict. c. 96, the "night" is to be deemed to "commence at 9 of the clock in the evening of each day, and to conclude at 6 of the clock in the morning of the next succeeding day" (s. 1).

OFFENCE.	Class of Off and Statute or Aut
CATTLE (*Note* 29).	
105. Whosoever shall steal any horse, mare, gelding, colt *or* filly,—*or* any bull, cow, ox, heifer *or* calf,—*or* any ram, ewe, sheep *or* lamb.	F. 24 & 25 Vict s. 10.
106. Whosoever shall wilfully kill any animal, with intent to steal the carcase, skin *or* any part of the animal so killed.	F. Id. s. 1
107. Whosoever shall unlawfully and maliciously kill, maim *or* wound* any cattle. [MEM. *Slaughtering cattle without a licence, or giving notice, &c. is F. and burying hides a M.* (26 *Geo.* 3, *c.* 71, *ss.* 8, 9; 2 *Russ. on Cr.* 4*th ed.* 366, 367.]	F. 24 & 25 Vict. s. 40.
CHAIN CABLES AND ANCHORS.	
108. Stamping *or* assisting in stamping a chain cable *or* anchor with stamp *or* mark of any tester, without authority, with intent to pass same as duly tested,—*or* selling *or* delivering same for equipment of vessel,—*or* making and delivering false certificate of testing.	M. 27 & 28 Vict. s. 12.*
CHALLENGE.	
109. Provoking to fight *or* to send a challenge,—sending a challenge,—*or* taking same. [1 *Hawk. c.* 63, *s.* 3.]	M. Common L
CHAMPERTY, EMBRACERY AND MAINTENANCE.	..
CHEATING.	
110. As to selling by false scales *or* weights, &c. [*Arch. Cr. Pl. by Bruce,* 16*th ed. p.* 447.] [*See tits.* "Conspiracies," "False Pretences," *and* "Gaming;" *for other frauds at common law, see* 2 *Russ. on Cr.* 4*th ed.* 604—617.]	M. Common La
CHEQUES. *See Offence* 229, *tit.* "Forgery."	
CHILDREN. *See tits.* "Cruelty," "Carnally knowing Females," *and* "Concealing Birth."	

By sect. 53, "no building, although within the same curtilage with any dwell house, and occupied therewith, shall be deemed to be part of such dwelling-hous any of the purposes of this act, unless there shall be a communication between building and dwelling-house, either immediate, or by means of a covered and encl passage leading from the one to the other." Upon an indictment for burglary larceny, the jury may find the prisoner not guilty of the burglary, but guilty of larceny (Arch. Cr. Pl. by Bruce, 16th ed. p. 461).

28 "CARNALLY KNOWING FEMALES:" *Definition of Carnal Knowledge.*] By 24 & Vict. c. 100, s. 63, "whenever, upon the trial of any offence punishable under this it may be necessary to prove carnal knowledge, it shall not be necessary to prove actual emission of seed in order to constitute a carnal knowledge, but the carnal kn ledge shall be deemed complete upon proof of penetration only."

29 "CATTLE:" *Apprehension of Offenders without Warrant—Restitution of Prop*

Page, &c. of Formalist.	Where triable.	As to Bail.	Punishment.	If Costs of Prosecution allowed.
No. 103, p. 529.	Sessions (*Note* 29).	Discretionary.	Pen. serv. 14—5 yrs.; —*or* impr. not exc. 2 yrs., with *or* without h. l. and s. c. (s. 10).	Yes.
No. 104, p. 529.	Sessions.	Id.	The same (s. 11).	Yes.
No. 105, p. 529.	Id.	Id.	The same (s. 40). [MEM. *No instrument need be used.* Reg. *v.* Bullock, 37 L. J. (N. S.) M. C. 47; 17 Law T., N. S. 516.]	Yes.
..	Sessions.	Compulsory.	Impr. for any term not exc. 2 yrs., with *or* without h. l. and s. c. (s. 12).	No.
Nos. 106—108, p. 529.	Sessions (see *Note* 29, *post*).	Compulsory.	Fine, *or* impr., *or* both (see *R.* v. *Phillips*, 6 East, 464).	No.
..	..	..	[*See* 3 *Burn's Jus.* 30*th ed. pp.* 742—745.]	
..	Sessions.	Compulsory.	Fine, *or* imprisonment (with h. l., 14 & 15 Vict. c. 100, s. 29), *or* both.	No.

Venue.] For the offences under 24 & 25 Vict. c. 96, *Note* 78, *post*, or under 24 & 25 Vict. c. 97, *Note* 90, *post*, will be applicable. The Offence 105 may be tried either in the county where the animal is stolen, or into or through which the offender drove or carried it (see *Note* 79, *post*).

29 "CHURCH OR MEETING HOUSES:" *Mode of Proceeding.*] By the statutes 1 Will. & M. c. 18, s. 18, and 52 Geo. 3, c. 155, s. 12, on proof of the offence committed either in a church or a dissenting chapel before any justice by two or more credible witnesses, the offender is to find two sureties, to be bound by recognizance in the penal sum of £50, to answer for the offence, and in default to be committed to prison till the next general or quarter sessions. The depositions should be taken in the ordinary way, and transmitted to the sessions with the several recognizances. See also tit. "*Church*," Vol. I., p. 335, and 18 & 19 Vict. c. 86, tit. "*Dissenters*," Vol. I., p. 394, *Note* 121.

OFFENCE.	Class of Offence and Statute or Authority.
CHILD STEALING.	
111. Whosoever shall unlawfully, either by force *or* fraud, lead *or* take away, *or* decoy *or* entice away *or* detain, any child under the age of fourteen years, with intent to deprive any parent, guardian *or* other person having the lawful care *or* charge of such child of the possession of such child, *or* with intent to steal any article upon *or* about the person of such child, to whomsoever such article may belong,—and whosoever shall, with any such intent, receive *or* harbour any such child, knowing the same to have been by force *or* fraud, led, taken, decoyed, enticed away *or* detained, as in this section before mentioned. [*See titles* "Abduction" *and* "Cruelty."]	F. 24 & 25 Vict. c. 100, s. 56.
CHLOROFORM OR OTHER DRUG. Administering, to enable himself *or* another to commit, *or* to assist in committing, any indictable offence. *See Offence* 70, *ante*, *p.* 1034.]	
CHURCH OR MEETING HOUSES (*Note* 30).	
112. Disquieting *or* disturbing, *or* misusing any preacher *or* teacher of any congregation in any cathedral *or* parish church, chapel *or* other congregation permitted by Toleration Act.	M. 1 Will. & M. c. 18, s. 18.
113. The like, at common law. [*See* 23 & 24 *Vict. c.* 32, *ante*, *p.* 336, *for summary punishment.*]	M. Common Law.
114. The like, Dissenters [Roman Catholics, 31 Geo. 3, c. 33, s. 10; and Jews, and all other lawful congregations, 9 & 10 Vict. c. 59, s. 4; 15 & 16 Vict. c. 36; 18 & 19 Vict. c. 81]. *See Note* 31. [*See titles* "Clergymen" *and* "Sacrilege."]	M. 52 Geo. 3, c 155, s. 13.
CLERGYMEN.	
115. Whosoever shall, by threats *or* force, obstruct *or* prevent, *or* endeavour to obstruct *or* prevent, any clergyman *or* other minister in or from celebrating divine service *or* otherwise officiating in any church, chapel, meeting house, *or* other place of divine worship, *or* in or from the performance of his duty in the lawful burial of the dead in any churchyard *or* other burial place,—*or* shall strike *or* offer any violence to, *or* shall, upon any civil process, *or* under the pretence of executing any civil process, arrest any clergyman *or* other minister who is engaged in, *or* to the knowledge of the offender is about to engage in, any of the rites or duties in this section aforesaid, *or* who to the knowledge of the offender shall be going to perform the same *or* returning from the performance thereof. [*See tit.* "Marriages."]	M. 24 & 25 Vict. c. 100, s. 36.
COAL MINE. *See* "Mines (Coal, &c.);" *also Offences* 38, 39, *tit.* "Arson;" *Offences* 310, 311, *tit.* "Larceny."	

31 *Exception.*] This provision of the 52 Geo. c. 155, s. 12, is not applicable to churches or chapels of the Church of England (*Carr* v. *Marsh*, 2 Phill. 203: 14 J. P. 62).

32 "COIN:" *Apprehension of Offenders without Warrant—Search Warrant—Interpretation of Terms—Proof of Coin being Counterfeit.*] By 24 & 25 Vict. c. 99, s. 31, "it shall

	Page, &c. of Formalist.	Where triable.	As to Bail.	Punishment.	If Costs of Prosecution allowed.
1	Nos. 109, 110, p. 530.	Sessions.	Discretionary.	Penal servitude 7—5 years;—*or* imprisonment not exceeding 2 yrs., with *or* without hard labour, and, if a male under 16, with *or* without whipping (s. 56).	Yes.
2	No. 111, p. 530.	Sessions.	Compulsory (*Note* 30).	Penalty £20 on each offender.	No.
3	No. 112, p. 530.	Assizes (1 Eliz. c. 2).	Id.	Fine, *or* imprisonment, *or* both.	No.
4	Nos. 113, 114, p. 531.	Sessions.	Id.	Penalty £40 on each offender, except Roman Catholic congregations, and then £20.	No.
5	No. 115, p. 531.	Sessions.	Discretionary.	Imprisonment for any term not exceeding 2 years, with *or* without hard labour (s. 36);—and in addition to *or* in lieu thereof, fine offender and require him to enter into recognizance, with *or* without sureties, for keeping the peace and being of good behaviour for not exceeding one year (s. 71).	Yes (s. 77).

lawful for any person whatsoever to apprehend any person who shall be found committing any indictable offence, or any high crime and offence, or crime and offence, gainst this act, and to convey or deliver him to some peace officer, constable or officer f police in order to his being conveyed as soon as reasonably may be before a justice

OFFENCE.	Class of Offence and Statute or Authority.
COIN (*see Notes* **32, 33**).	
116. *Gold or Silver Coin.*] Falsely making *or* counterfeiting any coin resembling *or* apparently intended to resemble *or* pass for any of the Queen's current gold *or* silver coin.	F. 24 & 25 Vict. c. 99, s. 2.
117. Gilding *or* silvering, *or* by any means washing, casing over, *or* colouring, any coin resembling, &c.—*or* gilding, &c. any piece of silver, copper, coarse gold *or* silver metal, *or* mixture of metals, being of fit size and figure to be coined, with intent that same shall be coined into false gold *or* silver coin,—*or* gilding, &c. copper coin, *or* filing *or* altering same, to make same pass for gold *or* silver coin,—*or* gilding, &c. silver to pass for gold coin.	F. Id. s. 3.
118. Impairing, diminishing, *or* lightening gold *or* silver coin, —with intent to pass same.	F. Id. s. 4.
119. Knowingly having in custody *or* possession (*Note* **32**) any filings *or* clippings, *or* any gold *or* silver bullion, *or* any gold *or* silver in dust, solution, *or* otherwise, produced by impairing, &c.	F. Id. s. 5.
120. Buying, selling, receiving, paying, *or* putting off,—*or* offering to buy, &c.,—any counterfeit gold *or* silver coin, at or for a lower rate *or* value than its denomination imports.	F. Id. s. 6.
121. Knowingly importing *or* receiving into the United Kingdom any counterfeit gold *or* silver coin.	F. Id. s. 7.

of the peace or some other proper officer, to be dealt with according to law." By sect. 27, a search warrant may be granted by a justice for counterfeit coin or tools, &c. [See the section in full in Chap. II. of Part III., tit. "*Coin*," and Forms of Information and Search Warrant, Nos. 116, 117, Oke's "*Formulist*," 6th ed. pp. 531, 532.] *Vide* sect. 1 for the interpretation of terms, which further enacts, that "where the having any matter in the custody or possession of any person is mentioned in this act, it shall include, not only the having of it by himself in his personal custody or possession, but also the knowingly and wilfully having it in the actual custody or possession of any other person, and also the knowingly and wilfully having it in any dwelling-house or other building, lodging, apartment, field or other place, open and inclosed, whether belonging to or occupied by himself or not, and whether such matter shall be so had for his own use or benefit or for that of any other person" (see *Reg.* v. *Uriah Weeks*, 30 L. J. (N. S.) M. C. 141; 4 Law T., N. S. 373; *Reg.* v. *Harvey*, 40 L. J. (N. S.) M. C. 63; 23 Law T., N. S. 856). Evidence of a coin being counterfeit may be given by any credible witness (s. 29); and any offence is complete although the coin is not finished or perfected (s. 30). Persons to whom coin tendered may cut the same, and the person tendering is to bear the loss, and in case of dispute a justice is to determine the same (see s. 26, set out in Chap. II. of Part III. of this Vol., *tit.* "*Coin*").

33 *Certain Offences as to Coin deemed "Crimes" within the Prevention of Crimes Act,* 1871, *and subject to Police Supervision.*] By 34 & 35 Vict. c. 112, s. 20, the expression "crime" means (*inter alia*) "the offence of uttering false or counterfeit coin, or of possessing counterfeit gold or silver coin." By sect. 8, persons convicted of such crimes, after a previous conviction of a "crime," are subject to police supervision; and by sect. 14, provision is made for the care of children of women so convicted (see *ante*, p. 1009).

34 *Venue—Offences in different Jurisdictions.*] By 24 & 25 Vict. c. 99, s. 28, "where any person shall tender, utter or put off any false or counterfeit coin in one county or jurisdiction, and shall also tender, utter or put off any other false or counterfeit coin in

	Page, &c. of Formulist.	Where triable.	As to Bail.	Punishment.	If Costs of Prosecution allowed.
	No. 118, p. 532.	Assizes.	Discretionary (11 & 12 Vict. c. 42, s. 23, *ante*, p. 977).	Pen. serv. life—5 years; —*or* impr. not exc. 2 years, with *or* without h. l. and s. c. (s. 2).	(See *Note* 35).
17	Nos. 119—122, pp. 532, 533.	Id.	Id.	Pen. serv. life—5 years; —*or* impr. not exc. 2 years, with *or* without h. l., and with *or* without s. c. (s. 3).	Id.
18	No. 123, p. 533.	Sessions (and see *Note* 34).	Id.	Pen. serv. 14—5 years; —*or* impr. not exc. 2 years, with *or* without h. l. and s. c. (s. 4).	Id.
19	No. 124, p. 533.	Id.	Id.	Pen. serv. 7—5 years; —*or* impr. not exc. 2 years, with *or* without h. l. and s. c. (s. 5).	Id.
20	No. 125, p. 533.	Assizes.	Id.	The same as Offence 117, *supra* (s. 6).	Id.
21	No. 126, p. 533.	Id.	Id.	The same (s. 7).	Id.

any other county or jurisdiction, either on the day of such first-mentioned tendering, uttering or putting off, or within the space of ten days next ensuing,—or where two or more persons acting in concert in different counties or jurisdictions, shall commit any offence against this act,—every such offender may be dealt with, indicted, tried and punished, and the offence laid and charged to have been committed, in any one of the said counties or jurisdictions, in the same manner in all respects as if the offence had been actually and wholly committed within such one county or jurisdiction." As to offences within the admiralty jurisdiction, see sect. 36.

35 *Costs of Prosecution—In what Cases allowed.*] By 24 & 25 Vict. c. 99, s. 42, in all prosecutions for *any offence* against this act in England, which shall be conducted under the direction of the solicitors of her Majesty's treasury, the court before which such offence shall be prosecuted or tried shall allow the expenses of the prosecution in all respects as in cases of felony [which is in the first instance paid out of the county rate as referred to in *Note* 37, *infra*, as to Bail]; and in all prosecutions for any such offence in England which shall not be so conducted, it shall be lawful for such court, in case a *conviction shall take place, but not otherwise*, to allow the expenses of the prosecution in like manner;—and every order for the payment of such costs shall be made out, and the sum of money mentioned therein paid and repaid, upon the same terms and in the same manner in all respects as in cases of felony. This provision will regulate the allowance of costs in *felonies* also, notwithstanding 7 Geo. 4, c. 64, s. 22, *ante*, p. 983.

36 *What is an Uttering—Subsequent Utterings.*] "To utter and put off" a thing is to "offer it, whether taken or not" (*per* Jervis, C. J., in *Reg.* v. *Welch*, 20 L. J. (N. S.) M. C. 101; 2 Den. C. C. 78). Subsequent utterings of counterfeit coins of different denominations, or subsequent possession of the same kind of coins, are evidence to prove the guilty knowledge (*R.* v. *Harrison*, 2 Lewin, C. C. 118; *Reg.* v. *Forster*, 24 L. J. (N. S.) M. C. 134; 1 Dears. C. C. 456).

OFFENCE.	Class of Offe and Statute or Auth
COIN—*continued.*	
122. Knowingly tendering, uttering, *or* putting off any false *or* counterfeit coin resembling the current gold *or* silver coin. [*Note* 36 *as to utterings.*]	M. 24 & 25 Vict s. 9.
123. The like offence as 122, and having at the time any other piece of false *or* counterfeit coin resembling the current gold or silver coin.	M. Id. s. 1
124. The like offence as 123, and either on the same day, *or* within ten days ensuing, knowingly tendering, &c. any like false *or* counterfeit coin.	M. Id.
125. Knowingly having in custody *or* possession three *or* more pieces of false *or* counterfeit gold *or* silver coin, with intent to utter same. [*See Note* 32, *and* Reg. *v.* Jarvis, 25 *L. J.* (*N. S.*) *M. C.* 30; 1 *Dears. C. C.* 552.]	M. Id. s. 11
126. Committing any of the offences in the last three sections (Offences 122—125), having before been convicted of a similar offence. [Where an indictment charged a felonious uttering of counterfeit coin after a previous conviction for the offence of uttering counterfeit coin, and the prisoner was arraigned and tried upon the subsequent offence and found guilty; and then upon arraignment, as to the part of the indictment which charged that he had been previously convicted, denied that he had been so previously convicted, and the jury after inquiry found that he had not been so previously convicted; it was held, that the prisoner could not be convicted of the misdemeanor of uttering the counterfeit coin. (*Reg.* v. *Thomas*, 44 L. J., M. C. 42.)] [*See Note* 38 *as to evidence of previous conviction.*]	F. Id. s. 12.
127. With intent to defraud, tendering, &c. as the current gold *or* silver coin any foreign coin, *or* any medal, *or* piece of metal resembling the current coin, such coin, &c. being of less value than the current coin. [*See* Reg. *v.* Robinson, 34 *L. J.* (*N. S.*) *M. C.* 176; 1 *Leigh & Cave, C. C.* 604; 12 *Law T., N. S.* 501.]	M. Id. s. 13.
128. *Copper Coin.*] Making *or* counterfeiting coin resembling current copper coin,—*or* knowingly making, mending, buying, selling, *or* having in custody *or* possession (*Note* 32) any tool, &c. for counterfeiting same,—*or* buying, selling, receiving, paying, *or* putting off, *or* offering to buy, &c. counterfeit coin resembling current copper coin for less value than it imports.	F. Id. s. 14.

37 *When Bail in Misdemeanors is "Discretionary" or "Compulsory."*] By 11 & Vict. c. 42, s. 23, *ante*, pp. 979, 980, bail is discretionary with the justices in *all* felo and *certain specified misdemeanors* (of which those in this title are not named), where the person is charged "with any misdemeanor for the prosecution of which

[illegible]	[illegible]ge, &c. of [illegible]mulist.	Where triable.	As to Bail.	Punishment.	I[illegible] P[illegible]
	No. 127. p. 533.	Sessions (and see *Note* 34).	Discretionary *or* compulsory, as Offence 127.	Imp. not exceeding 1 year, with *or* without hard labour and solitary confinement (s. 9).	N
	No. 128, p. 534.	Id.	Id.	Impr. not exc. 2 years, with *or* without h. l. and s. c. (s. 10).	
	No. 129. p. 534.	Id.	Id.	The same.	
	No. 130, p. 534.	Id.	Id.	Penal servitude 5 years; —*or* impr. not exc. 2 years, with *or* without hard labour and s. c. (s. 11).	
	No. 131, p. 534.	Assizes (5 & 6 Vict. c. 38, *ante*, p. 973; and see *Note* 34).	Discretionary (11 & 12 Vict. c. 42, s. 23, *ante*, p. 977).	Penal servitude life—5 years;—*or* imprisonment not exceeding 2 years, with *or* without hard labour and solitary confinement (s. 12).	
	No. 132, p. 534.	Sessions (and see *Note* 34).	Discretionary when prosecuted by Treasury; compulsory, if not see (*Note* 37).	Imprisonment not exceeding 1 yr., with *or* without hard labour and solitary confinement (s. 13).	
	No. 133, p. 534.	Id.	Discretionary (11 & 12 Vict. c. 42, s. 23, *ante*, p. 977).	Penal servitude 7—5 years;—*or* imprisonment not exceeding 2 years, with *or* without hard labour and s. c. (s. 14).	

[illegible]ts may be allowed out of the county rate." But as the 24 & 25 Vict. c. 9 [illegible] *Note* 35, *supra*, annexes conditions to the allowance of such costs: 1st, that [illegible]cution shall be conducted by the treasury; and 2nd, that if conducted by [illegible]ndent prosecutor a conviction shall take place,—it follows that bail in the

OFFENCE.	Class of Offe and Statute or Autl
COIN—*continued.*	
129. Knowingly tendering, &c. false *or* counterfeit coin resembling current copper coin,—*or* knowingly having in custody *or* possession (*Note* 32) three *or* more pieces of such counterfeit coin with intent to utter same.	M. 24 & 25 Vict s. 15.
130. *Foreign Coin.*] Making *or* counterfeiting foreign gold *or* silver coin.	F. Id. s. 18
[MEM. *Making or procuring dies for the purpose is a misdemeanor at common law* (Reg. *v.* Roberts, 25 *L. J.* (*N. S.*) *M. C.* 17; 26 *Law T.* 126.	
131. Bringing such counterfeit coin into the United Kingdom.	F. Id. s. 19.
132. Knowingly tendering, &c. such counterfeit coin.	M. Id. s. 20.
133. The like, the second offence.	M. Id. s. 21.
[*See Note* 38, *as to the proof of the previous conviction.*]	
134. The like, the third offence.	F. Id.
[*See Note* 38, *as to the proof of the previous conviction.*]	
135. Making *or* counterfeiting foreign copper coin, *or* any other metal coin, of less value than silver foreign coin.	M. Id. s. 22.
136. *General Offences.*] Knowingly exporting, *or* putting on board to be exported, any counterfeit coin resembling, &c. current coin.	M. Id. s. 8.
137. Defacing current gold, silver, *or* copper coin, by stamping thereon any names *or* words.	M. Id. s. 16.

misdemeanor in this title is "discretionary" when the prosecution is conducted by treasury, and "compulsory," when otherwise conducted. In the latter case no ce ficate of the expenses incurred by the prosecutor before them can be given by magistrates until after the conviction of the accused. Bail in cases of felony, wh is regulated solely by 11 & 12 Vict. c. 42, s. 23, is unaffected by the 24 & 25 Vict. c. 9 but the allowance of costs in *felonies*, like in misdemeanors, will be wholly regula by the latter act, and not the 7 Geo. 4, c. 64, s. 22.

38 *Evidence of previous Conviction*—"*Prevention of Crimes Act*, 1871."] 24 & 25 Vi c 99, s. 37, as to the evidence of a previous conviction, and at which stage it is to

Page, &c. of Formalist.	Where triable.	As to Bail.	Punishment.	If Costs of Prosecution allowed.
No. 134, p. 535.	Sessions (and see *Note* 34).	Discretionary *or* compulsory, as Offence 127.	Imprisonment not exceeding 1 year, with *or* without h. l. and s. c. (s. 15).	(*See Note* 35.)
No. 135, p. 535.	Id.	Discretionary (11 & 12 Vict. c. 42, s. 23, *ante*, p. 977.	Penal servitude 7—5 years;—*or* imprisonment not exceeding 2 years, with *or* without hard labour and s. c. (s. 18).	Id.
1 ..	Id.	Id.	The same (s. 19).	Id.
2 ..	Id.	Discretionary *or* compulsory, as Offence 127.	Imprisonment not exceeding 6 months, with *or* without hard labour (s. 20).	Id.
3 ..	Id.	Id.	Imprisonment not exceeding 2 years, hard labour and s. c. (s. 21).	Id.
14 ..	Assizes (5 & 6 Vict. c. 38, *ante*, p. 973: and see *Note* 34).	Discretionary (11 & 12 Vict. c. 42, s. 23, *ante*, p. 977.	Same as Offence 126, *supra*, (s. 21).	Id.
15 ..	Sessions (*Note* 34).	Discretionary *or* compulsory, as Offence 127.	1*st Offence.*] Impr. not exc. 1 year. 2*nd Offence.*] Pen. serv. 7—5 yrs.; *or* impr. not exc. 2 yrs., h. l. and s. c. (s. 22).	Id.
16 ..	Id.	Id.	Impr. not exc. 2 years, with *or* without h. l. and s. c. (s. 8).	Id.
17 No. 136, p. 535.	Id.	Id.	Impr. not exc. 1 year, with or without h. l. (s. 16).	Id.

proved at the trial, is a similar enactment to 24 & 25 Vict. c. 96, s. 116, in *Note* 31, post, tit. "*Larceny*" [see *Reg.* v. *Martin*, 39 L. J. (N. S.) M. C. 31; 21 Law T., N. S. 469]; and so is sect. 9 of the "Prevention of Crimes Act, 1871," 34 & 35 Vict. c. 112, *Note* 1, *ante*, p. 1006, on the latter point.

39 "COMBINATIONS:" *Jurisdiction of Quarter Sessions in some Cases.*] *Vide* 5 & 6 Vict. c. 38, s. 1, paragraph 16, *ante*, p. 973. An indictment for conspiracy in the general form to obtain money by false pretences, is within the jurisdiction of the quarter sessions (*Latham* v. *Reg.*, 9 Cox, C. C. 516; 10 Law T., N. S. 571).

OFFENCE.	Class of Offence and Statute or Authority.
COIN—*continued.*	
138. Knowingly *or* without authority making, mending, buying, selling, *or* having in custody *or* possession (*Note* 32, *as to possession, and Cases*), any coining tools, presses, machine, &c. [MEM. *A galvanic battery is a "machine"* Reg. *v.* Gover, 9 *Cox, C. C.* 282).	F. 24 & 25 Vict. c. 99, s. 24.
139. Conveying coining tools, monies, *or* metal out of the Mint without authority.	F. Id. s. 25.
140. Principal in second degree and accessories before the fact. [*See* Reg. *v.* Greenwood, 21 *L. J.* (*N. S.*) *M. C.* 127; 2 *Den. C. C.* 453.]	F. Id. s. 35.
141. Accessory *after* the fact to any felony under the act.	Id.
COMBINATIONS. *See* "Conspiracies."	
142. Unlawful combinations and confederacies. [*By* 9 & 10 *Vict. c.* 33, *s.* 1, *proceedings under* 39 *Geo.* 3, *c.* 79, *and* 57 *Geo.* 3, *c.* 19, *for seditious practices and meetings must be commenced in the name of the law officers of the crown. See tit.* "Oaths (Unlawful."]	M. 39 Geo. 3, c. 79, s. 2; 57 Geo. 3, c. 19. s. 25.
COMPANIES, Offences by Directors of. [*See tits.* "Fraudulent Trustees," "Trading Companies."]	
COMPOUNDING.	
143. Compounding a felony. [1 *Hawk. c.* 59, *s.* 5, *&c.*]	M. Common Law.
144. Compounding a misdemeanor, without legal sanction. [*See* 5 *East*, 298, 302.]	Id.
145. Compounding informations on penal statutes, without leave of court.	M. 18 Eliz. c. 5, s. 4; 56 Geo. 3, c. 138, s. 2.
CONCEALING BIRTH (*Note* 40).	
146. If any woman shall be delivered of a child, every person who shall, by any secret disposition of the dead body of the said child, whether such child died before, at, *or* after its birth, endeavour to conceal the birth thereof.	M. 24 & 25 Vict. c. 100, s. 60.

40 "CONCEALING BIRTH:" *Enactment—Decision.*] "If any person tried for the murder of any child shall be acquitted thereof, it shall be lawful for the jury by whose verdict such person shall be acquitted to find, in case it shall so appear in evidence, that the child had recently been born, and that such person did, by some secret disposition of the dead body of such child, endeavour to conceal the birth thereof, and thereupon the court may pass such sentence as if such person had been convicted upon an indict-

Page, &c. of Paragraphs.		Where triable.	As to Bail.	Punishment.	If Costs of Prosecution allowed.
8	Nos. 137—139, p. 535.	Assizes.	Discretionary (11 & 12 Vict. c. 42, s. 23, *ante*, p. 977).	Pen. serv. life—5 yrs.; —*or* impr. not exc. 2 yrs., with or without h. l. and s. c. (s. 24).	(*See Note* 35).
9	No. 140, p. 535.	Id.	Id.	The same (s. 25).	Id.
10	..	..	..	As principal (s. 35).	Id.
11	..	..	..	Impr. not exc. 2 years, with *or* without h. l. (s. 35).	Id.
12	..	Assizes.	Compulsory.	Penal servitude, 7—5 years;—*or* imprisonment not exceeding 2 years (39 Geo. 3, c. 79, s. 8; 20 & 21 Vict. c. 3, s. 2, *ante*, p. 1005).	No.
143 144 145	No. 141, p. 536.	Sessions.	Compulsory.	Fine and imprisonment.	No.
145	No. 142, p. 536.	Assizes.	Discretionary.	Impr. for not exc. 2 yrs., with *or* without h. l. (s. 60).	Yes (s. 77).

ment for the concealment of the birth" (24 & 25 Vict. c. 100, s. 60). The cases upon this enactment are—*Reg.* v. *Perry*, 1 Dears. C. C. 471; 24 L. J. (N. S.) M. C. 137; *Reg.* v. *Ope*, 8 Cox, C. C. 332; *Reg.* v. *Sleep*, 9 Cox, C. C. 559; *Reg.* v. *May*, 16 Law T., N. S. 362; *Reg.* v. *Brown*, 39 L. J. (N. S.) M. C. 94; 22 Law T., N. S. 484; *Reg.* v. *George*, 11 Cox, C. C. 41; *Reg.* v. *Richards*, Id. 43; *Reg.* v. *Cook*, Id. 542; 22 Law T., N. S. 216; *Reg.* v. *Williams*, 11 Cox, C. C. 684.

OFFENCE.	Class of Offence and Statute or Authority.
CONSPIRACIES (*Note* 41).	
147. By two or more persons;—1. To charge another with crime; 2. To defraud or injure others; 3. To commit an offence; 4. To prevent the course of justice; 5. To effect legal purposes by improper means; and 6. Of journeymen to raise wages. [1 *Hawk. c.* 72, *s.* 2.]	M. Common Law.
148. To commit an offence which the quarter sessions have jurisdiction to try when committed by one person.	Id.
[MEM. *Indictments cannot be preferred for conspiracies without a previous inquiry before justices or the order of a judge, &c.; see* 22 & 23 *Vict. c.* 17, *ante, pp.* 876, 877.]	
[*Conspiracy to murder. See Offence* 393, *tit.* "Murder."]	
148a. Wilfully and maliciously breaking a contract of service, *or* of hiring, knowing *or* having reasonable cause to believe that the probable consequences of his so doing, either alone *or* in combination with others, will be to endanger human life *or* cause serious bodily injury, *or* to expose valuable property, whether real *or* personal, to destruction *or* serious injury.	M. 38 & 39 Vict. c. 86, s. 5.
[MEM. *See Note* 70, *ante, p.* 349. *The parties and their husbands or wives are competent witnesses,* s. 11. *See Note* 71, *p.* 350.]	
CONSTABLES.	
149. Refusing to execute the office when required by law to do so [*e.g.* as chief *or* petty constable, overseer of the poor, &c.],—*or* neglecting duty. [*See* R. *v.* Bower, 1 *B.* & *C.* 585; 2 *D.* & *R.* 842.]	M. Common Law.
150. Any person refusing to assist a constable when called upon to do so.	Id.
[*Constables embezzling monies, see tit.* "Public Service."]	
[*Assaults on them, see tit.* "Assaults," *Offence* 54.]	

41 "CONSPIRACIES:" *Cases of Offences which are or are not Conspiracies—Offenders subject to Supervision of Police.*] As to what are conspiracies punishable criminally or not, see Arch Cr. Pl. by Bruce, 16th ed. p. 870; 3 Russell on Crimes, 4th ed. p. 116. The most recent cases are *Reg.* v. *Lewis* (Mock Auctions), 11 Cox, C. C. 404; *Reg.* v. *Gurney & others* (Overend, Gurney & Co.), 11 Cox, C. C. 414; *Reg.* v. *Warburton* (to defraud partner), 40 L. J. (N. S.) M. C. 22; 23 Law T., N. S. 473: *Ex parte Wason* (statements in Parliament), 40 L. J. (N. S.) M. C. 68. Persons convicted of "the offence of conspiracy to defraud," are, upon a subsequent conviction, subject to the supervision of

Page, &c. of Formalist.	Where triable.	As to Bail.	Punishment.	If Costs of Prosecution allowed.
Nos. 143—149, pp. 536, 537.	Assizes (*Note* 42).	Compulsory.	Fine, *or* impr. [with h. l., 14 & 15 Vict. c. 100, s. 29], *or* both. [See Arch. Cr. Pl. by Bruce, 16th ed. p. 869.]	No; except in certain cases. *See* *
..	Sessions (see *Note* 39).	Id.	The same. [* *The costs are allowed where the conspiracy is to charge with or to indict for felony, or to commit felony, ante, p.* 982.]	Id.*
15a ..	Sessions. [MEM. *This offence may also be dealt with upon summary conviction* (see *Note* 72, p. 350).]	Id.	Penalty not exceeding £20, or imprisonment not exceeding three months, with or without hard labour.	No.
149 No. 150, p. 537.	Sessions.	Discretionary, if accused a peace officer; Compulsory, if not.	Fine, *or* imprisonment, *or* both.	Yes, if a peace officer.
150 No. 151, p. 538.	Id.	Compulsory.	The same. [*See* R. *v.* Brown, 1 *Car. & M.* 314; R. *v.* Phelps, *Id.* 180.]	No.

the police (34 & 35 Vict. c. 112, s. 8, *ante*, p. 963), being a "crime," as defined by sect. 20, in *Note** *ante*, p. 951.

42 Venue in *Cases of Conspiracy—Jurisdiction of the Quarter Sessions in some Cases.*] The offenders can be tried in any county, &c., in which it can be proved that an act was done by any one of them in furtherance of their common design (see *R.* v. *Brisac*, 4 East, 164), or, of course, in that in which the conspiracy actually took place.

43 "COUNTY COURTS:" *Cases decided on Offence* 152.] The cases decided under this enactment of 9 & 10 Vict. c. 95, s. 57, are,—*Reg.* v. *Evans*, 1 Dears. & Bell's C. C. 236;

OFFENCE.	Class of Offence and Statute or Authority.
COPYRIGHT IN BOOKS.	
151. Any person wilfully making *or* causing to be made a false entry in the registry book of the Stationers' Company,—*or* wilfully producing *or* causing to be tendered in evidence any paper falsely purporting to be a copy of an entry in the said book.	M. 5 & 6 Vict. c. 45, s. 12.
COUNTING-HOUSE. *See tit.* "Housebreaking."	
COUNTY COURTS.	
152. Forging the seal *or* any process of the court,—*or* serving *or* enforcing any such forged process, knowing the same to be forged,—*or* delivering *or* causing to be delivered to any person any paper falsely purporting to be a copy of any summons *or* other process of the court, knowing the same to be false,—*or* acting *or* professing to act under any false colour *or* pretence of the process of the court (*Note* 43). [*See also a general provision in* 24 & 25 *Vict. c.* 98, *ss.* 27, 28, *Offences* 233, 234, *tit.* "Forgery."]	F. 9 & 10 Vict. c. 95, s. 57.
CRUELTY.	
153. To those of tender years *or* servants under one's control, as by not providing food, &c.,—*or* deserting infant in street, &c.,—whereby injury to health occasioned. *See* Reg. *v.* Philpott, 1 *Dears. C. C.* 179; 22 *L. J.* (*N. S.*) *M. C.* 113; Reg. *v.* Chandler, 24 *L. J.* (*N. S.*) *M. C.* 109;]*	M. Common Law.
154. Whosoever shall unlawfully abandon *or* expose any child, being under the age of two years, whereby the life of such child shall be endangered, *or* the health of such child shall have been *or* shall be likely to be permanently injured.	M. 24 & 25 Vict. c. 100, s. 27.
CURTILAGE BREAKING AND LARCENY. *See tit.* "Housebreaking."	
DANGEROUS GOODS.	
155. Delivering specially dangerous goods [*i.e.*, nitro-glycerine *or* glenoine oil, s. 1] to warehouse, owner *or* carrier,—*or* sending, *or* carrying, *or* causing to be sent *or* carried such goods upon any railway *or* in any ship, *or* in any other public conveyance,—*or* depositing such goods in *or* on any warehouse *or* quay, without the true name *or* description of the goods, with the words "specially dangerous" distinctly written, &c., on the outside, *or* (in case of delivery to a warehouse-keeper *or* carman) without written notice of their description, &c. MEM. *If the offender convicted, show that he did not know the nature of the goods, he is only liable to a penalty of not more than* £200; *and if an accused**	M. 29 & 30 Vict. c. 69, s. 3.

Reg. v. *Castle*, 27 L. J. (N. S.) M. C. 70; 1 Dears. & Bell's C. C. 363; *Reg.* v. *Richmond*, 1 Bell, C. C. 142; 28 L. J. (N. S.) M. C. 142.

44 "CRUELTY:" *Cases decided on Offence* 154.] The cases decided under this enact-

Page, &c. of Paragraph.	Where triable.	As to Bail.	Punishment.	If Costs of Prosecution allowed.
..	Sessions.	Compulsory.	Fine, *or* imprisonment, *or* both.	No.
No. 152, p. 538.	Assizes (5 & 6 Vict. c. 38, *ante*, p. 973).	Discretionary.	Pen. serv. 7—5 years; —*or* impr. not exc. 2 years, h. l., s. c. and w. (7 & 8 Geo. 4, c. 28, ss. 8, 9; 20 & 21 Vict. c. 3, s. 2, *ante*, p. 1005).	Yes.
Nos. 153—155, pp. 538, 539.	Sessions.	Compulsory.	Fine, *or* imprisonment, *or* both. * [Reg. *v.* Ryland, 37 *L. J.* (*N. S.*) *M. C.* 10, 17 *Law T., N. S.* 219.]	No; *but see tit.* "Servants."
No. 156, p. 539.	Id.		Pen. serv. 5 yrs.;—*or* impr. not exc. 2 yrs., with *or* without h. l. (s. 27). [*See cases in Note* 44.]	Yes (s. 77).
15 ..	Sessions.	Compulsory.	Pen. not exc. £500,—*or* impr. with *or* without h. l. for not exc. 2 yrs. (s. 3), and forfeiture of goods (s. 5). *[*show that he could not, with reasonable diligence, have obtained such knowledge, he is not liable to be convicted* (s. 4).]	No.

ment of 24 & 25 Vict. c. 100, s. 27, are,—*Reg.* v. *Falkingham*, 39 L. J. (N. S.) M. C. 17; 21 Law T., N. S. 679: *Reg.* v. *White*, 45 L. J. (N. S.) M. C. 134; 24 Law T., N. S. 637.

OFFENCE.	Class of Offence and Statute or Authority.
DANGEROUS GOODS—*continued.*	
156. Acting in contravention of this section, which prohibits the importation and exportation of nitro-glycerine. [MEM. *The Secretary of State may authorize its importation or exportation* (*s.* 3).]	M. 32 & 33 Vict. c. 113, s. 3.
157. Manufacturing, selling, carrying, *or* otherwise disposing of,—*or* having in possession,—any nitro-glycerine without a general *or* special licence granted by the Secretary of State. [MEM. *Sect.* 5, *relating to giving notice, is now spent.*] [*See tit.* "Petroleum," *Vol. I. p.* 662.]	M. Id. s. 4.
DEAD BODIES.	
158. Disinterring a dead body [R. *v.* Lynn, 2 *T. R.* 733; R. *v.* Gillies, *R. & Ry.* 366, *n.*] †[*See Anatomy Acts*, 2 & 3 *Will.* 4, *c.* 75, *and* 34 *Vict. c.* 16; *and* Reg. *v.* Feist, 1 *Dears. & B. C. C.* 590.]	M. Common Law.
DECLARATION.	
159. Making a false declaration where it is lawfully received instead of an affidavit on oath. [*See tit.* "Perjury."]	M. 5 & 6 Will. 4, c. 62, s. 21.
DEEDS. *See Offence* 302, *tit.* "Larceny," *and tits.* "Vendors," "Forgery," *Offence* 226.	
DEER. *See Offences* 293, 294, *tit.* "Larceny."	
DEMANDING MONEY WITH MENACES. *See Offence* 316, *tit.* "Larceny."	
DIRECTORS OF PUBLIC COMPANIES. *See tits.* "Fraudulent Trustees," "Trading Companies."	
DISOBEDIENCE.	
160. Of a justice's order, or 161. Of the direction *or* prohibition of a statute where no penalty annexed.	M. Common Law.
DISORDERLY HOUSES (*Note* 45).	
162. Keeping a bawdy house, gaming house, *or* other disorderly house. [*As to Common Gaming Houses, see tit.* "Gaming Houses."]	M. 25 Geo. 2, c. 36, ss. 5, 6, 8; 58 Geo. 3, c. 70, s. 7.

45 "DISORDERLY HOUSES:" *Mode of Proceeding—Venue—Costs.*] Two inhabitants of the parish give notice to the constable of the fact, who goes forthwith with such

Page, &c. of Formalist.	Where triable.	As to Bail.	Punishment.	If Costs of Prosecution allowed.
..	Sessions.	Compulsory.	Impr. with *or* without h. l. for not exc. 1 year, —*or* pen. not exc. £500, and forfeiture of nitro-glycerine (s. 3). [*See exception in s.* 3.]	No.
..	Id.	Id.	The like impr. *or* pen. (s. 4). [MEM. *The offence is also punishable summarily*].	No.
Nos. 157, 158, p. 539.	Sessions.	Compulsory.	Fine, *or* imprisonment, *or* both.†	No.
No. 159, p. 539.	Assizes (5 & 6 Vict. c. 38).	Compulsory.	Fine, *or* imprisonment, *or* both. [*See tit.* "Oaths," *Chap. II. of Part III.*]	No.
..	Sessions.	Compulsory.	Fine, *or* imprisonment, *or* both.	No.
Nos. 160—165, pp. 540, 541.	Sessions (*Note* 45).	Compulsory.	Fine [to the crown] *or* impr. [with h. l., 3 Geo. 4, c. 114] *or* both.	Yes, by the overseers (*Note* 45).

inhabitants to a justice; and on such inhabitants making oath that they believe the contents of such notice to be true and entering into a recognizance of £20 each to give

OFFENCE.	Class of Offence and Statute or Authority.
DISSENTERS. *See tits.* "Church or Meeting Houses," *and* "Sacrilege."	
DOCKS. *See Offence* 320, *tit.* "Larceny;" *Offences* 356, 357, *tit.* "Malicious Injuries."	
DOGS, stealing. *See Offences* 295—297, *tit.* "Larceny."	
DRIVERS OF CARRIAGES.	
163. Whosoever having the charge of any carriage *or* vehicle, shall, by wanton *or* furious driving *or* racing *or* other wilful misconduct, *or* by wilful neglect, do *or* cause to be done any bodily harm to any person whatsoever.	M. 24 & 25 Vict. c. 100, s. 35.
DROWN, Attempting to. *See Offences* 45, 68, *tits.* "Assaults," "Attempts to Murder."	
DWELLING HOUSES. *See tits.* "Arson," "Burglary;" *Offence* 317, *tit.* "Larceny," "Housebreaking."	
EAST INDIES, Offences in. *See tit.* "India."	
ELECTIONS (PARLIAMENTARY).	
164. *In General.*] Wilfully making a false answer to questions put by returning officer at elections for members of parliament.	M. 6 & 7 Vict. c. 18, s. 81.
165. Knowingly personating *or* falsely assuming to vote as a voter.	Id. ss. 83—89 (*Note* 46).
166. Falsely *or* fraudulently signing a declaration [voter's declaration of change of abode, s. 10] in the name of another, whether living *or* dead,—*or* knowingly transmitting as genuine a false *or* falsified declaration,—*or* knowingly and wilfully making a false statement in declaration.	M. 28 Vict. c. 36, s. 11.

evidence, the constable [or overseers, 58 Geo. 3, c. 70, s. 7] enter into a recognizance in £30 to prosecute (25 Geo. 2, c. 36, s. 5). The justice may then issue his warrant to apprehend the person accused, and bind him over to answer the charge, and for good behaviour in the meantime (Id. s. 6), first, as a precautionary step, taking the depositions to prove the charge pursuant to the later and general enactments of 11 & 12 Vict. c. 42, s. 17, *ante*, p. 945, which is not inconsistent with the procedure in these cases and the earlier acts. As to what is a "keeping," see *Reg.* v. *Barrett*, 32 L. J. (N. S.) M. C. 36; 7 Law T., N. S. 435; *Reg.* v. *Stannard*, 33 L. J. (N. S.) M. C. 58; 9 Law T., N. S. 428; *Reg.* v. *Rice and Wilton*, 35 L. J. (N. S.) M. C. 93; 13 Law T., N. S. 678; *Baxter* v. *Langley*, 38 L. J. (N. S.) M. C. 1. The quarter sessions of a borough have jurisdiction to try the offence, notwithstanding the language of the act (*Reg.* v. *Ann Charles*, 31 L. J. (N. S.) M. C. 69; 5 Law T., N. S. 328). This offence is also indictable at common law on the prosecution of a private individual, but then it must be at his own expense. By the 22 & 23 Vict. c. 17, *ante*, pp. 878, 879, an indictment cannot be preferred for the offence of "keeping a disorderly house" without a previous inquiry before justices, or a judge's consent, &c. With reference to the costs of prosecution, they are to be ascertained by two justices, and paid by the overseer to the officer prosecuting [*vide* Form of Justices' Certificate, Oke's "*Formulist*," 6th ed. p. 757]; and

Page, &c. of Formalist.	Where triable.	As to Bail.	Punishment.	If Costs of Prosecution allowed.
No. 166, p. 542.	Sessions.	Discretionary.	Imprisonment not exceeding 2 years, with *or* without hard labour (s. 35).	Yes (s. 77).
No. 167, p. 542.	Assizes (5 & 6 Vict. c. 38).	Compulsory.	Fine, *or* imprisonment, *or* both.	No.
No. 168, p. 542.	Id.	Id.	The same.	No.
..	Id.	Id.	Fine, *or* impr. for not exc. 1 year;—and revising barrister may impound declaration (s. 11).	No.

conviction takes place, £10 also to each of the two inhabitants; and on refusal to , the overseers are to forfeit double the sum (25 Geo. 2, c. 36, s. 5).

"ELECTIONS (PARLIAMENTARY):" *Apprehension of Personator.*] By 6 & 7 Vict. c. , s. 87, persons charged with personation are to be taken before two justices, and led in certain cases. If the justices are satisfied that the person charged has been lty of personation, they are to commit him for trial (s. 88); but if the charge is unded, they may order compensation to be paid to the person charged (s. 89). The Vict. c. 36, is incorporated with 6 & 7 Vict. c. 18.

How long 17 & 18 Vict. c.102 in force—Time of Prosecution—Costs.] The act 17 & Vict. c. 102, originally in force for one year, is now continued by 34 & 35 Vict. c. 95, l the 8th June, 1872, "and end of then next session." By 17 & 18 Vict. c. 102, s. , the prosecution must be commenced within the space of one year next after the nce committed; and see *Reg.* v. *Leatham*, 3 Law T., N. S. 504, and 26 Vict. c. 29, . The court trying the offence may order payment of the prosecutor's costs (17 & Vict. c. 102, s. 10). In cases of private prosecutions, if judgment given for the ndant, he is to recover his costs from the prosecutor (s. 12); but the prosecutor is t to be entitled to costs unless he shall have entered into a recognizance to conduct e prosecution and pay costs (s. 13).

OFFENCE.	Class of Of and Statute or Au
ELECTIONS (PARLIAMENTARY)—*continued.*	
167. Persons bribing. [*See the several articles of this section for the particular acts defining* "Bribery."]	M. 17 & 18 Vic s. 2 (*Note*
168. Voter receiving a bribe before, during, *or* after election [*By* 30 *&* 31 *Vict. c.* 102, *s.* 11, *an elector voting who has been employed for reward for a candidate within* 6 *months is guilty of a misdemeanor.*]	Id. s. 2
169. Persons using undue influence to induce voter to vote *or* refrain from voting. [*By* 30 *&* 31 *Vict. c.* 102, *s.* 49, *the corrupt payment of rates for these purposes is punishable as bribery.*]	Id. s. 5
170. Any person making any payment, advance, loan, *or* deposit by *or* on behalf of a candidate otherwise than through authorized agents.	M. 26 Vict. c.
171. Agent *or* candidate wilfully furnishing to returning officer an untrue statement of election expenses. [*By* 30 *&* 31 *Vict. c.* 102, *s.* 50, *a returning officer acting as agent for a candidate is guilty of a misdemeanor.*]	Id. s. 4
172. *Universities.*] Falsely *or* fraudulently signing voting paper [used in election of members of parliament for the Universities] in the name of any other person, either as a voter *or* witness,—*or* knowingly signing, attesting *or* tendering, &c. as genuine a false *or* falsified voting paper,—*or* falsely making a declaration [of knowledge of voter, &c. (s. 2)],—*or* with fraudulent intent altering, destroying, &c. a voting paper,—*or* wilfully making false answer to returning officer.	M. 24 & 25 Vic s. 5.
ELECTIONS (MUNICIPAL). *See* "Elections (Parliamentary").	
By sect. 3 of the "Corrupt Practices (Municipal Elections) Act, 1872," 35 & 36 Vict. c. 60, it is enacted, that "The offences of bribery, treating, undue influence and personation, shall be deemed to be corrupt practices at an election for the purposes of this act. The terms 'bribery,' 'treating,' 'undue influence,' and 'personation' shall respectively include anything committed or done before, at, after, or with respect to an election, which if done before, at, after, or with respect to an election of members to serve in parliament, would render the person committing or doing the same liable to any penalties, punishments or disqualifications for bribery, treating, undue influence or personation, as the case may be, under any act for the time being in force with respect to elections of members to serve in parliament. Any person who is guilty of a corrupt practice at an election shall be liable to the like actions, prosecutions, penalties, forfeitures and punishments, as if the corrupt practice had been committed at an election of members to serve in parliament."	35 & 36 Vict.

	Page, &c. of Formulist.	Where triable.	As to Bail.	Punishment.	If Costs of Prosecution allowed.
67	No. 169, p. 542.	Assizes (s. 10).	Discretionary.	Fine, *or* imprisonment, *or* both.	Yes (see ss. 10, 12, 13, *Note* 47).
68	No. 170, p. 542.	Id.	Id.	The same.	Id.
69	..	Id.	Id.	The same.	Id.
70	..	Id.	Id.	The same.	Id.
71	..	Id.	Id.	The same.	Id.
72	..	Assizes (5 & 6 Vict. c. 38).	Compulsory.	Fine—*or* imprisonment for a term not exc. 1 year (s. 5). [MEM. *These provisions are applied by* 30 & 31 *Vict. c.* 102, *s.* 45, *to elections for the University of London.*]	No.

OFFENCE.	Class of Offence and Statute or Authority.
EMBEZZLEMENT (*Note* 48).	
173. Whosoever being a clerk *or* servant,—*or* being employed for the purpose *or* in the capacity of a clerk *or* servant,—shall fraudulently embezzle any chattel, money, *or* valuable security, which shall be delivered to *or* received *or* taken into possession by him for *or* in the name *or* on the account of his master *or* employer, *or* any part thereof,—shall be deemed to have feloniously stolen the same from his master *or* employer, although such chattel, money, *or* security was not received into the possession of such master *or* employer otherwise than by the actual possession of his clerk, servant, *or* other person so employed (*Note* 49).	F. 24 & 25 Vict. c. 96, s. 68.
174. Embezzlement by an officer *or* servant of the governor and company of the bank of England. [*As to embezzlement by partners, see Offence* 325, *tit.* "Larceny;" *by members of banking companies, see tit.* "Bankers;" *and by public servants and constables, see tit.* "Public Service."]	F. Id. s. 73.
ENLISTMENT. *See titles* "Foreign States," "Military Law," "Navy (Marine Forces)," *and* "Office."	
ENTRY (FORCIBLE) AND DETAINER.	
175. Into a freehold or leasehold.	M. 5 Rich. 2, c. 8; 15 Rich. 2, c. 2; 21 Jac. 1, c. 15; 8 Hen. 6, c. 9.
176. At common law. [1 *Hawk. c.* 64, *s.* 28.]	M. Common Law.
177. Not assisting justices in arresting persons holding forcible possession.	M. 15 Rich. 2, c. 2.

48 "EMBEZZLEMENT:" *Apprehension of Offenders without Warrant—Restitution of Property.*] *Note* 78 to title "*Larceny,*" *post*, is applicable to this title.

49 *Enactments—Decisions—When a Servant or Agent not a Partner.*] By 24 & 25 Vict. c. 96, s. 71, the indictment may charge any number of distinct acts of embezzlement, not exceeding three, committed by the offender against the same master within six calendar months from the first to the last of such acts, and may allege the embezzlement of money or a valuable security (defined by s. 1, *Note* 80, tit. "*Larceny,*" *post*) to be of money, without specifying the particular coin or valuable security; proof of any amount being sufficient [and in the case of a valuable security, being a cheque, proof also of its having been paid; *Reg.* v. *Keene*, 17 Law T., N. S. 515] to sustain the indictment; and by s. 72 (*set out in extenso in Note* 86, *post*), the jury may find the prisoner not guilty of this offence, but guilty of simple larceny, or of larceny as a clerk or servant, who can be punished as if he had been indicted for such larceny; and if he is indicted for larceny, he may be convicted of embezzlement. The employment is to be inferred from the course of business (*Reg.* v. *Hastie*, 32 L. J. (N. S.) M. C. 63; 7 Law T., N. S. 695). As to the persons within and not within the act as a clerk or servant it may be said generally that the accused must be subject as to his duties to the directions of the prosecutor to be such clerk or servant, a mere volunteer not being punishable for non-accounting (*Reg.* v. *Mayle*, 11 Cox, C. C. 150 (Recorder)). See the cases thereon and as to the act of embezzling, of *Reg.* v. *Lister*, 1 Dears. & Bell,

Page, &c. of Formalist.	Where triable.	As to Bail.	Punishment.	If Costs of Prosecution allowed.
No. 171, p. 543.	Sessions (*see Note 50, as to venue*).	Discretionary.	Pen. serv. 14—5 years; —*or* impr. not exc. 2 years with *or* without h. l., s. c., and, if a male under 16, whipping (s. 68). [MEM.—*A servant will be within the terms of the section 68, though it was neither his duty to receive the money, &c., nor had he authority to do so.*]	Yes.
..	Assizes (5 & 6 Vict. c. 38).	Id.	Pen. serv. life—5 yrs.; —*or* impr. not exc. 2 years, with or without h. l. and s. c. (s. 73).	Yes.
Nos. 172, 173, p. 543.	Sessions.	Compulsory.	Impr., and ransom at the Queen's will;—restitution of property (see 31 Eliz. c. 11).	No.
Id.	Id.	Id.	Fine, *or* impr., *or* both.	No.
..	Id.	Id.	Fine and imprisonment.	No.

C. 118; 26 L. J. (N. S.) M. C. 26; *Reg.* v. *Walker* (commission agent), 1 Dears. & B., C. C. 601; 27 L. J. (N. S.) M. C. 207; *Reg.* v. *Bowers* (a coal agent), not a clerk or servant, 35 L. J. (N. S.) M. C. 206; 14 Law T., N. S. 671; *Reg.* v. *Marshall* 11 Cox, C. C. 490; 21 Law T., N. S. 796; *Reg.* v. *Betts*, 1 Bell, C. C. 90; 28 L. J. (N. S.) M. C. 69; *Reg.* v. *May* (commission agent), 30 L. J. (N. S.) M. C. 81; Law T., N. S. 680; *Reg.* v. *Tongue* (secretary to a club, 30 L. J. (N. S.) M. C. 49; Law T., N. S. 451; *Reg.* v. *Proud*, 31 L. J. (N. S.) M. C. 171; 5 Law T., N. S. 331; *Reg.* v. *Tyree* (treasurer of a friendly society, not a clerk, &c.), 38 L. J. (N. S.) M. C. 9; 13 Law T., N. S. 657; *Reg.* v. *Diprose* (nor the secretary), 11 Cox, C. C. 185; 19 Law T., N. S. 262; *Reg.* v. *Stainer* (servant of an unregistered society), 39 L. J. (N. S.) M. C. 54; 21 Law T., N. S. 758; *Reg.* v. *Bren*, 33 L. J. (N. S.) M. C. 59; 9 Law T., N. S. 452; *Reg.* v. *Burgess*, 32 L. J. (N. S.) M. C. 195; *Reg.* v. *Tite* (traveller for general), 30 L. J. (N. S.) M. C. 142; 4 Law T., N. S. 259; *Reg.* v. *Bailey* (traveller and collector to prosecutor exclusively), 24 Law T., N. S. 477; *Reg.* v. *Macdonald* (traveller having share of profits) 31 L. J. (N. S.) M. C. 67; 5 Law T., N. S. 330; *Reg.* v. *Turner* (traveller on commission), 11 Cox, C. C. 551; 22 Law T., N. S. 278; *Reg.* v. *Dixon* (manager of a shop), 11 Cox, C. C. 178; 19 Law T., N. S. 394; *Reg.* v. *Snider*, 30 L. J. (N. S.) M. C. 34; 1 Bell, C. C. 284; 3 Law T., N. S. 337; *Reg.* v. *Freeland* (partner in joint stock company), 1 Leigh & Cave, C. C. 276; *Reg.* v. *Glover* (county court bailiff not servant of high bailiff), 1 Leigh & Cave, C. C. 466; 10 Law

OFFENCE.	Class of Offence and Statute or Authority.
ESCAPE, PRISON BREACH AND RESCUE.	
178. Returning from transportation [*or* penal servitude, 20 & 21 Vict. c. 3, s. 6, *ante*, p. 1005] before expiration of term.	F. 5 Geo. 4, c. 84, s. 22.
179. Rescuing a convict from overseer, gaoler, &c.	Id. and 56 Geo. 3, c. 27, ss. 7, 13.
180. Rescuing a murderer, *or* his body after execution.	F. 25 Geo. 2, c. 37, ss. 9, 10.
181. Officer having person in charge for felony voluntarily permitting his escape. 4 *Bl. Comm.* 130; 1 *Hale*, 234; 2 *Hawk. c.* 19, *s.* 22.]	F. or M. Common Law (*Note* 51).
[*A negligent escape by an officer is punishable by fine only* (2 *Hawk. c.* 19, *s.* 21), *but if a private person fine or imprisonment, or both* (*Id. c.* 20, *s.* 6).]	
182. Breaking prison when in custody for a capital offence (*i.e.* treason *or* felony). [1 *Hale*, 612.]	F. 1 Edw. 2, st. 2, c. 1.
183. The like, on a minor charge.	M. Id.

T., N. S. 582. In *Reg.* v. *Negus*, 42 L. J., M. C. 62, the prisoner was employed to solicit orders for the prosecutor, and was to be paid by a commission on the sums received through his means. He was at liberty to apply for orders wherever he thought most convenient, but was not to employ himself for any other person than the prosecutors. The judge at the trial directed the jury that the prisoner was a clerk or servant within the meaning of the 24 & 25 Vict. c. 96, s. 68. Upon this, it was held that the defendant was not a clerk or servant within the meaning of this statute, and therefore that the direction was wrong; but that, generally speaking, whether a person under such an employment and paid by commission is a clerk or servant, is a question of fact for a jury. In *Reg.* v. *Foulkes*, 44 L. J., M. C. 65, the son of a man who kept an office and held various appointments, amongst which was that of clerk to a local board, which son living at home assisted his father in his office, conducting the business of the board, but without being paid any salary, may be convicted of embezzling monies received by him on business of the local board as the clerk or servant, or as being employed in the capacity of a clerk or servant of his father, and the monies may be alleged in the indictment to be the monies of the father. More than three sums received of different persons may be alleged in one gross sum in the indictment, as also where the sum unaccounted for is a balance of small sums received or payment short (see *Reg.* v. *Balls*, 40 L. J. (N. S.) M. C. 148; 24 Law T., N. S. 760; *Reg.* v. *King*, 24 Law T., N. S. 670). By the act 28 & 29 Vict. c. 86, "to amend the law of partnership" [5th July, 1868], s. 2, "no contract for the remuneration of a servant or agent of any person [which is to 'include a partnership firm, a joint stock company, and a corporation,' s. 6] engaged in any trade or undertaking by a share of the profits

	Page, &c. of Formulist.	Where triable.	As to Bail.	Punishment.	If Costs of Prosecution allowed.
[illegible]	No. 174, p. 543.	Assizes (5 & 6 Vict. c. 38).	Discretionary.	Pen. serv. for life, and previously impr. for not exc. 4 yrs., h. l. (4 & 5 Will. 4, c. 67); —*or* pen. serv. life.	Yes.
[illegible]	..	Id.	Id.	Same as No. 184.	Yes.
[illegible]	..	Id.	Id.	Pen. serv. life—5 yrs.; —*or* impr. not exc. 3 yrs., h. l.;—and (in case of a body) pen. serv. 7—5 yrs.	Yes.
[illegible]	No. 175, p. 544.	Sessions *or* Assizes, as the case may require.	F. Discretionary. M. Compulsory.	F. The same as the party escaping was sentenced (*Note* 51). M. Fine and impr.	Yes (F.); No. (M.)
[illegible]	Nos. 176, 179, p. 544.	Id.	Discretionary.	Pen. serv. 7—5 yrs.;—*or* impr. not exc. 2 yrs., h. l., s. c. and w. (7 & 8 Geo. 4, c. 28, ss. 8, 9).	Yes.
[illegible]	..	Sessions.	Compulsory.	Fine & impr. (2 *Hawk.* c. 18, s. 21), and h. l.	No.

of such trade or undertaking shall, of itself, render such servant or agent responsible as a partner therein, nor give him the rights of a partner." The other provisions are:—the advance of money on contract to receive a share of profits not to constitute the lender a partner (s. 1); certain annuitants not to be deemed partners (s. 3); receipt of profits in consideration of sale of good will not to make the seller a partner (s. 4); in case of bankruptcy, &c. lender not to rank with other creditors (s. 5). See *Reg.* v. *Salt*, 35 Law T. Rep. 526, where the manager of an insurancecomp any appropriated the proceeds of a cheque sent to him from a branch office.

50 *Venue.*] The offender for Offences 173, 174, may be tried in the county, &c. in which the embezzlement took place, if that be known; but in the absence of express evidence upon that subject, either in the county where the offender received the money, &c., *or* (and perhaps more properly and in practice more generally) in the county in which he ought to have accounted for it to his master, and did not, or refused to do so, or denied its receipt. See *Reg.* v. *Murdock*, 2 Den. C. C. 298; 21 L. J. (N. S.) M. C. 52. Also by 7 Geo. 4, c. 64, s. 12, felonies or misdemeanors begun in one county, and completed in another, may be tried in either county (see Vol. I. p. 22, *Note* 12 thereto).

51 "ESCAPE, PRISON BREACH AND RESCUE:" *Observation on Offence.*] This offence is felony if the party escaping have received judgment; but a misdemeanor if before conviction. The officer, however, cannot be punished until after the original delinquent has been convicted, but before such conviction he may be fined and imprisoned as for a misdemeanor (Arch. Cr. Pl. by Bruce, 16th ed. p. 743). The imprisonment of the delinquent must be for some criminal matter, otherwise the escape is not punishable criminally (Id. p. 741).

OFFENCE.	Class of Offence and Statute or Authority.
ESCAPE, PRISON BREACH AND RESCUE—*continued.*	
184. Aiding any prisoner in escaping *or* attempting to escape from any prison,—*or* with intent to facilitate the escape of any prisoner, conveying, *or* causing to be conveyed into any prison, any mask, dress, *or* other disguise, *or* any letter, *or* any other article *or* thing.*	F. 28 & 29 Vict. c. 126, s. 37 (*Note* 52).
185. Rescuing a prisoner from custody when not convicted,—*or* convicted only of a misdemeanor. [2 *Hawk. c.* 21, *s.* 8; 1 *Hale*, 607.]	M. Common Law.
186. Rescuing, *or* aiding and assisting in rescuing, from constable, &c. person charged *or* committed for felony.	M. or F. 1 & 2 Geo. 4, c. 88, s. 1.
†[*If party rescued convicted of high treason, the rescue is the same offence; if for felony, the rescue is felony; if for a misdemeanor, a misdemeanor.*]	
187. Rescuing a prisoner where charged and convicted of treason *or* felony. [2 *Hawk. c.* 21, *s.* 8; 1 *Hale*, 607; *and* 4 *Bl. Comm.* 131.]	F. Common Law.
188. Aiding *or* assisting a prisoner *or* convict in custody for treason *or* felony to make his escape while being conveyed to prison *or* in prison.	F. 16 Geo. 2, c. 31, ss. 1, 3 (*Note* 53).
189. The like, in custody for petty larceny, *or* for debt of £100.	M. Id.
190. Rescuing goods in the custody of the law, *or* breaking open a pound. [2 *Hawk. c.* 21, *s.* 20.]	M. Common Law.
191. Aiding prisoners of war to escape.	F. 52 Geo. 3, c. 156, s. 1.
[*Rescuing or permitting escape of criminal lunatics, see Offence* 343, *tit.* "Lunatics."]	
EXCHEQUER BILLS, Forging. *See Offences* 215—218, *tit.* "Forgery."	
EXCISE.	
192. Armed persons opposing the law [as to spirits],—*or* violently rescuing offenders,—*or* assaulting officers, informers *or* witnesses.	F. 23 & 24 Vict. c. 114, s. 200.

52 *Repeal of* 4 *Geo.* 4, *c.* 64.] The Offence 184 was, up to 1st February, 1866, punishable under 4 Geo. 4, c. 64, s. 43, that act being repealed by the Prisons Act, 1865, 28 & 29 Vict. c. 126, from that date.

53 *Time of Prosecution for Offences* 188, 189.] The prosecution for offences under the 16 Geo. 2, c. 31, must be commenced within one year (16 Geo. 2, c. 31, s. 4).

Page, &c. of Formalist.	Where triable.	As to Bail.	Punishment.	If Costs of Prosecution allowed.
Nos. 177, 178, p. 544.	Sessions.	Discretionary.	Impr. with h. l. for not exc. 2 yrs. *[*A crow-bar is such "article or thing."* Reg. *v.* Payne, 35 *L. J.* (*N. S.*) *M. C.* 170; 14 *Law T.*, *N. S.* 416.]	Yes.
No. 180, p. 544.	Id.	Compulsory.	Fine, *or* impr. *or* both [*see Arch. Cr. Pl. by Bruce, 16th ed. p.* 750.]	No.
Nos. 181—183, pp. 544, 545.	Assizes *or* Sessions.	Discretionary.	Fine *or* impr. as M., if party rescued be not convicted [*see first col. opposite page*†] for the felony, pen. serv. 7—5 years;—*or* impr. 3—1 yr.	Yes, if for F.; No, if a M.
..	Id.	Id.	Same as principal;—*or* pen. serv. 7—5 yrs.;—*or* impr. not exc. 4 yrs. (see 1 & 2 Geo. 4, c. 88, s. 1).	Yes.
No. 184, p. 545.	Sessions.	Id.	Penal servitude for seven years.	Yes.
No. 185, p. 545.	Id.	Compulsory.	Fine and impr.	No.
Nos. 186, 187, p. 545.	Id.	Id.	Fine, *or* impr., *or* both.	No.
..	Assizes.	Discretionary.	Penal servitude for life, *or* not less than five years.	Yes.
No. 188, p. 545.	Sessions.	Id.	Pen. serv. for seven yrs.	Yes.

† "False Pretences:" *Apprehension of Offenders without Warrant—Restitution of Property—Vexatious Indictments Act applicable to Offences.*] As to the apprehension of offenders, *Note* 78 to tit. "*Larceny*," *post*, is equally applicable to this title. Attention should be paid to the terms of the apprehension clause, 24 & 25 Vict. c. 96, s. 103, as set out, which is defective, and does not authorize the apprehension of the person

OFFENCE.	Class of Of and Statute or Au
EXPLOSIVE SUBSTANCES. *See* "Explosive Substances," *ante, p.* 406. By section 91 it is enacted, that "every offence under this act may be prosecuted, and every penalty under this act may be recovered, and all explosives and ingredients liable to be forfeited under this act may be forfeited, either on indictment or before a court of summary jurisdiction, in manner directed by the Summary Jurisdiction Acts." [MEM. *The offences under this statute have been fully treated under the head of "Summary Convictions."*	M. 38 Vict. c.
EXPOSING CHILD. *See tit.* "Cruelty."	
EXTORTION.	
193. By any officer by colour of his office. [1 *Hawk. c.* 68, *s.* 1; 2 *Salk.* 680.] [*There are various others punishable by particular statutes.*]	M. Common L
FACTORS. *See tit.* "Agents."	
FACTORY INSPECTORS. *See tit.* "Workshops Regulation."	
FALSE IMPRISONMENT.	
194 .... [*See Arch. Cr. Pl. by Bruce,* 16*th ed. pp.* 645—649.]	M. Common L
FALSE PERSONATION.	
194a. "If any person shall falsely and deceitfully personate any person *or* the heir, executor, *or* administrator, wife, widow, next of kin, *or* relation of any person with intent fraudulently to obtain any land, estate, chattel, money, valuable security *or* property he shall be guilty of felony." [MEM. *Nothing in this act is to prevent any person from being proceeded against and punished under any other act or at common law in respect of an offence (if any) punishable as well under this act as under any other act or at common law; s.* 2.]	F. 37 & 38 Vict. s. 1.

committing either of the Offences 195—197, *after* its commission, although the off may have the property in his possession, unless he offers to sell or pawn it. [Se *Brittain* v. *Bank of London*, 8 Law T., N. S. 382; 3 F. & F. 465.] By 22 & 23 c. 17, *ante*, pp. 877, 878, an indictment cannot be preferred for "obtaining mon other property by false pretences," unless a previous inquiry has taken place b justices, or by the order of a judge, &c.

	Page, &c. of Formalist.	Where triable.	As to Bail.	Punishment.	If Costs of Prosecution allowed.
193	No. 189, p. 546.	Sessions of any county (31 Eliz. c. 5, s. 4).	Compulsory.	Fine, *or* imprisonment, *or* both [*Arch. Cr. Pl. by Bruce*, 16*th edit. p.* 774.]	No.
194	No. 190, p. 547.	Sessions.	Compulsory.	Fine, *or* imprisonment, *or* both.	No.
194a	..	Assizes, s. 3.	Discretionary.	Penal servitude for life, *or* not less than 5 years, *or* imprisonment not exceeding 2 years, with *or* without hard labour, and with *or* without solitary confinement.	Yes.

194a *Extension of Enactment.*] By 24 & 25 Vict. c. 96, s. 89, "whosoever shall by any false pretence cause or procure any money to be paid, or any chattel, or valuable security, to be delivered to any other person, for the use or benefit, or on account of the person making such false pretence, or of any other person, with intent to defraud, shall be deemed to have obtained such money, chattel, or valuable security within the meaning of the last preceding section." [Offence 195.]

OFFENCE.	Class of Offence and Statute or Authority.
FALSE PRETENCES (*Notes* **54, 55, 56**).	
195. Whosoever shall by any false pretence obtain from any other person any chattel, money, *or* valuable security, with intent to defraud. ["Valuable Security" *is defined by s.* 1, *Note* **80**, *tit.* "Larceny." *See Note* **55** *for cases, &c.; see also Offence* 92, *tit.* "Bankrupts."	M. 24 & 25 Vict. c. 96, s. 88.
196. Whosoever shall by any false pretence cause *or* procure any money to be paid, *or* any chattel, *or* valuable security, to be delivered to any other person, &c. [*See the conclusion of the section in Note* **54a**].	M. Id. s. 89.
197. Whosoever, with intent to defraud *or* injure any other person, shall by any false pretence fraudulently cause *or* induce any other person to execute, make, accept, indorse, *or* destroy the whole *or* any part of any valuable security, *or* to write, impress, *or* affix his name, *or* the name of any other person, *or* of any company, firm, *or* copartnership, *or* the seal of any body corporate, company *or* society, upon any paper *or* parchment, in order that the same may be afterwards made *or* converted into *or* used *or* dealt with as a valuable security.*	M. Id. s. 90.

55 *Cases on what is and is not a False Pretence.*] A "false pretence" within this section appears from the various and somewhat contradictory decisions to be a fraudulent representation of some pretended, definite, positive and *existing fact*, essential in the case (not a mere promise for future conduct or to do some act only, nor an opinion or aggravated praise of goods disposed of, or tricks in commercial dealings), made for the purpose of inducing, and by which the prosecutor, believing the statement to be true, is induced to part with his entire property in the thing obtained [not the temporary use of it, *Reg.* v. *Kilham*, 39 L. J. (N. S.) M. C. 109; 22 Law T., N. S. 625], and in the case of money, whether it is an advance by way of loan or otherwise; or it may be such a false statement, combined with a promise to do something in future. It is immaterial whether the false pretence be made verbally or by means of untrue statements in written documents or in any other manner; but the obtaining of the property must, however, be the direct and not a remote result of the pretence made. See 2 Russ. on Cr. 4th ed. pp. 618—700. The guilty knowledge and the "intent to defraud" are to be implied from the facts proved in evidence in the particular case; and the offence may be committed by means of an innocent agent. The following cases will bear out these positions, and in which the principal decisions on the subject are referred to and commented on:—*R.* v. *Goodhall*, R. & R. 461, and *Reg.* v. *Lee* (a promise to do a future act), 1 Leigh & Cave, C. C. 309; 8 Law T., N. S. 437; *Reg.* v. *Walne* (cheque not to be presented till a future day), 11 Cox, C. C. 647; 23 Law T., N. S. 748; *Reg.* v. *Welman*, 22 L. J. (N. S.) M. C. 120; *Reg.* v. *Crossley*, 2 M. & Rob. 18 (advance by way of loan); *Reg.* v. *Roebuck*, 1 Dears. & Bell, C. C. 24 (false metal); *Reg.* v. *Jessop*, 1 Dears. & B., C. C. 442; 30 Law T. 293; *R.* v. *Sherwood*, 1 Dears. & Bell, C. C. 251; 26 L. J. (N. S.) M. C. 81; *R.* v. *Bryan*, Id. 84; 1 Dears. & Bell, C. C. 265 (Elkington's plate); *Reg.* v. *Ardley*, 40 L. J. (N. S.) M. C. 85; 24 Law T., N. S. 193; *Reg.* v. *Suter*, 17 Law T., N. S. 177; *Reg.* v. *Carter*, and *Reg.* v. *Hunter*, Id. 321;—as to the weight or quality of an article, *Reg.* v. *Burgon*, 1 Dears. & Bell, C. C. 11, and *Reg.* v. *Gardner*, Id. 40, in both of which there were contracts between the parties. See also *R.* v. *Mills*, Id. 205; 29 Law T. 114: 26 L. J. (N. S.) M. C. 79; *Reg.* v. *Watson*, 27 L. J. (N. S.) M. C. 18; 30 Law T. 171; and *Reg.* v. *Evans*, 32 L. J. (N. S.) M. C. 38; 7 Law T., N. S. 307, as to frauds in relation to partnership accounts; *Reg.* v. *Fry*, 30 Law T. 293; 1 Dears.

Page, &c. of Formalist.	Where triable.	As to Bail.	Punishment.	If Costs of Prosecution allowed.
Nos. 191–193, p. 547.	Sessions (*Note* 57).	Discretionary.	Pen. serv. 5 yrs.;—*or* impr. not exc. 2 yrs., with *or* without h. l. and s. c. (s. 88). [*See Offence* 241, *tit.* "Forgery," *demanding or receiving money upon forged instruments.*]	Yes (s. 121, and 14 & 15 Vict. c. 55, s. 2, *ante*, p. 983).
No. 194, p. 548.	Id.	Id.	Pen. serv. 5 yrs.;—*or* impr. not exc. 2 yrs., with *or* without h. l. and s. c. (s. 90). [*See also Offence* 15, *tit.* "Accusing of Crime." *["Valuable Security" *is defined by s.* 1 *in Note* 80, *tit.* "Larceny."]	Yes (s. 121).

Bell, C. C. 449; *Reg.* v. *West*, Id. 575 (pretence accompanied by a promise); *Reg.* v. ..., 1 Law T., N. S. 108; 29 L. J. (N. S.) M. C. 20; and *Reg.* v. *Dowey*, 11 Cox, C. C. 115; 17 Law T., N. S. 481 (notes of a country bank stopped payment); *Reg.* v. *Goss*, ... T., N. S. 237; 29 L. J. (N. S.) M. C. 86; *Reg.* v. *Ragg*, Id. 86; 1 Bell, C. C. ...; *Reg.* v. *Eagleton*, 24 L. J. (N. S.) M. C. 158; 1 Dears., C. C. 515; *Reg.* v. *Burnsides*, ... L. J. (N. S.) M. C. 42; 3 Law T., N. S. 311; *Reg.* v. *Butcher*, 1 Bell, C. C. 6; 28 ... J. (N. S.) M. C. 14; *Reg.* v. *Bramley*, 1 Leigh & Cave, C. C. 21; *Reg.* v. *Moseley*, 31 ... J. (N. S.) M. C. 24; 1 Leigh & Cave, C. C. 92; *Reg.* v. *Jennison*, 31 Law J. (N. S.) ... C. 146; 1 Leigh & Cave, C. C. 157; *Reg.* v. *Thompson*, 32 L. J. (N. S.) M. C. 57; ... v. *Kerrigan*, 33 L. J. (N. S.) M. C. 71; 1 Leigh & Cave, C. C. 383; *Reg.* v. *Lee*, Leigh & Cave, C. C. 418; 10 Law T., N. S. 348; *Reg.* v. *Naylor*, 35 L. J. (N. S.) ... C. 61; 13 Law T., N. S. 381; *Reg.* v. *Giles*, 34 L. J. (N. S.) M. C. 50; 1 Leigh & ..., C. C. 502; *Reg.* v. *Martin*, 36 L. J. (N. S.) M. C. 20, as to a continuing pretence. ... to means and value of business, &c., see *Reg.* v. *Howarth*, 11 Cox, C. C. 588; *Reg.* ... 18 Law T., N. S. 370; *Reg.* v. *Meakin*, 20 Law T., N. S. 544; *Reg.* v. *William*- ... 21 Law T., N. S. 444. As to remoteness of pretence, see *Reg.* v. *Gardner*, 1 Dears. Bell, C. C. 140; 7 Law T., N. S. 471; *Reg.* v. *Wilmot*, 24 Law T., N. S. 758. In ... v. *Hazelton*, 44 L. J., M. C. 11, it was held that a man who gives a cheque for the ...ount of goods purchased in a ready money transaction, saying that he wishes to pay ...dy money, makes a representation that the cheque is a good and valid order for the ...ount inserted in it, and if such person has only a colourable amount at the bank on ...ich the cheque is drawn without available assets to meet it, and has no authority to ...rdraw, and knows that the cheque will be dishonoured on presentation and intends ... defraud, he may be convicted of obtaining such goods by false pretences.

[*Enactments as to Indictment, and Verdict—Offenders subject to Supervision of the Police.*] ...y 24 & 25 Vict. c. 96, s. 88, it is provided, "that if, upon the trial of any person ...dicted for such misdemeanor, it shall be proved that he obtained the property in ...estion in any such manner as to amount in law to larceny, he shall not by reason ...hereof be entitled to be acquitted of such misdemeanor;—and no person tried for such ...isdemeanor shall be liable to be afterwards prosecuted for larceny upon the same facts: ...provided also, that it shall be sufficient in any indictment for obtaining or attempting

OFFENCE.	Class of Offence and Statute or Authority.
FALSE PRETENCES—*continued.*	
198. Attempting to obtain property, as Offences 195, 197, *supra*, by any false pretence. [*See* Reg. *v.* Hensler, 22 *Law T., N. S.* 691.]	M. Common Law.
[MEM. *A conviction for larceny after a conviction for Offences* 195, 197, *is punishable by penal servitude for 7 years; see Offence* 291, *tit.* "Larceny."	
FALSIFICATION OF ACCOUNTS ACT, 1875.	
198a. "If any clerk, officer *or* servant, *or* any person employed *or* acting in the capacity of a clerk, officer *or* servant, shall wilfully and with intent to defraud, destroy, alter, mutilate *or* falsify any book, paper, writing, valuable security *or* account which belongs to *or* is in the possession of his employer, *or* has been received by him for *or* on behalf of his employer, *or* shall wilfully and with intent to defraud make *or* concur in omitting any false entry in, *or* omit *or* alter, *or* concur in omitting *or* altering, any material particular from *or* in any such book, *or* any document *or* account, then in every such case the person so offending shall be guilty of a misdemeanor."	M. 38 & 39 Vict. c. 24, s. 1.
[MEM. *By sect.* 2 *it is to be sufficient in any indictment to allege a general intent to defraud, without naming any particular person intended to be defrauded. And by sect.* 3 *the act is to be read as one with the act of the* 24 & 25 *Vict. c.* 96.]	
FELONY.	
199. Misprision of felony—*i.e.* the concealment of a felony, which a man knows, but never assented to; for if he assented, this makes him either principal or accessory.	M. Common Law.
[*Attempt to commit, see titles* "Attempts to Murder," *and* "Attempts to commit other Crimes."]	
FIREWORKS. *See* "Explosive Substances."	
200. Nuisance by fireworks.	See 23 & 24 Vict. c. 139.
[*See* Reg. *v.* Bennett, 1 *Bell C. C.* 1; 28 *L. J.* (*N. S.*) *M. C.* 27.]	

to obtain any such property by false pretences to allege that the party accused did the act with intent to defraud, without alleging an intent to defraud any particular person, and without alleging any ownership of the chattel, money, or valuable security;—and on the trial of any such indictment it shall not be necessary to prove an intent to defraud any particular person, but it shall be sufficient to prove that the party accused did the act charged with an intent to defraud." See hereon *Reg.* v. *Bulmer*, 33 L. J. (N. S.) M. C. 171; 1 Leigh & Cave, C. C. 476. If, however, the offender be indicted for a larceny, the jury cannot find him guilty if the offence upon the evidence turn out

Page, &c. of Formalist.	Where triable.	As to Bail.	Punishment.	If Costs of Prosecution allowed.
No. 195, p. 548.	Sessions.	Discretionary.	Fine, *or* impr., *or* both. [*See* R. *v.* Ball, *C. & M.* 249; Reg. *v.* Marsh. 19 *L. J.* (*N. S.*) *M. C.* 12; Reg. *v.* Rigby, 7 *Cox, C. C.* 507.] [*See also Offence* 241, *tit.* "Forgery."]	No.
No. 195a, p. 548.	Sessions.	Compulsory.	Penal servitude not exceeding 7 years;—*or* imprisonment with *or* without hard labour not exceeding 2 years.	Yes.
No. 196, p. 548.	Sessions.	Compulsory.	Fine, *or* imprisonment, *or* both [4 *Bla. Comm.* 13; 3 *Inst.* 36].	No.
..	Sessions.	Compulsory.	[As a common nuisance. *See tit.* "Nuisances."]	No.

be an obtaining of money or goods by false pretences; and therefore, it is advisable doubtful cases to commit for the false pretence. By 14 & 15 Vict. c. 100, s. 18 (unpealed), proof of any one piece of coin, or any bank note, or any portion of the value thereof, will be sufficient. By "The Prevention of Crimes Act, 1871" (34 & 35 Vict. c. 112), s. 8, *ante*, p. 1009, persons convicted of "the offence of obtaining goods or money by false pretences" (which is a "crime," as defined by sect. 20 of that act, in *Note* *, *ante*, p. 951, after a previous conviction of a "crime," may be adjudged to be subject to police supervision for not exceeding seven years.

OFFENCE.	Class of O and Statute or A
FISH *Note* (58).	
201. Whosoever shall unlawfully and wilfully take *or* destroy [by night *or* day] any fish in any water which shall run through *or* be in any land adjoining *or* belonging to the dwelling-house of any person being the owner of such water, *or* having a right of fishery therein.	M. 24 & 2 c. 96, s.
[*This provision is not applicable to day anglers, who are punishable summarily; see Offences* 14—17, *Vol. I. p.* 538. [*Damaging Fish Pond, see Offence* 358, *tit.* "Malicious Injuries."]	
FIXTURES. Stealing, *see Offence* 323, *tit.* "Larceny;" *Damaging, see Offence* 346, *tit.* "Malicious Injuries."	
FLOODGATE. *See Offences* 356, 357, *tit.* "Malicious Injuries."	
FOOD. *See tit.* "Unwholesome Meat."	
FORCIBLE ENTRY. *See tit.* "Entry (Forcible) and Detainer."	
FOREIGN BILL. *See Offence* 225, *tit.* "Forgery."	
FOREIGN STATES (*Note* 59).	
202. *Illegal Enlistment.*] Any British subject, without the licence of H. M., enlisting in the service of a foreign state, *or*, whether a British subject *or* not, inducing any other person to do so (s. 4);—*or* leaving H. M.'s dominions with intent to serve a foreign state, *or* inducing any other person to do so (s. 5);—*or* embarking persons under misrepresentations as to service (s. 6).	M. 33 & 34 Vic ss. 4, 5,
203. Master *or* owner of a ship, without licence, taking illegally-enlisted persons, defined by section, on boardship (s. 7).	M. Id. s.
[MEM. *Ship to be detained until trial, and until all penalties paid or security given for them before two justices or a magistrate* (s. 7).]	

57 *Venue.*] The offence of obtaining money, &c. by false pretences, if begu county, and completed in another, both being in England, as for instance b may be dealt with in either place (see 7 Geo. 4, c. 64, s. 12, Vol. I. p. 22, a there cited; see also *Reg.* v. *Sans Garrett*, 1 Dears. C. C. 232; 23 L. J. (N. S. 20); but 24 & 25 Vict. c. 96, s. 114, as to the possession of property in one pa kingdom which was obtained in another, is not applicable to the offence (*Ry. bury*, 31 L. J. (N. S.) M. C. 88; 1 Leigh & Cave, C. C. 128).

58 "FISH:" *Apprehension of Offenders without Warrant.*] *Note* 78 to tit. "*L* is equally applicable to this title.

59 "FOREIGN STATES:" *Repeal of* 59 *Geo.* 3, *c.* 69—*Who to Prosecute for O Regulations as to Procedure against Offenders and Ships.*] By "The Foreign En Act, 1870" (33 & 34 Vict. c. 90), s. 31, the former act of 59 Geo. 3, c. 69, is r from the 9th August, 1870, with a saving as to offences previously committed

Page, &c. of Formalist.	Where triable.	As to Bail.	Punishment.	If Costs of Prosecution allowed.
1 No. 197, p. 549.	Sessions.	Discretionary.	Fine, *or* impr., *or* both (Com. Law) and sureties (s. 117). [*By s.* 25, *the tackle of fishers may be seized by the owner of the fishery, his servant or person authorized by him. Note* 258, *Vol. I.*, *p.* 539.]	Yes (s. 121).
2 ..	(See *Note* 60.)	Compulsory.	Fine and impr., with *or* without h. l., *or* either at discretion of court (ss. 4, 5, 6); but the impr. not to exceed 2 yrs. (s. 13).	No.
3 ..	Id.	Id.	The like as 202.	No.

own alone can prosecute in these cases, as was decided under the repealed act (*Ex parte Cranshaw*, 24 J. P. 805), and also for the condemnation of a ship (s. 19). By s. 20, where any offence is committed by reason whereof a ship, &c., or arms, or munitions of war are liable to forfeiture, proceedings may be instituted contemporaneously or not, against the offender and against the ship, &c.; and the one proceeding not necessary to be taken because the other is taken.

60 *Jurisdiction and Venue—Removal of Offenders for Trial.*] By 38 & 34 Vict. c. 90, s. 16, "Any offence against this act shall, for all purposes of and incidental to the trial and punishment of any person guilty of any such offence, be deemed to have been committed either in the place in which the offence was wholly or partly committed, or in any place within her Majesty's dominions in which the person who committed such offence may be." By sect. 17. "Any offence against this act may be described in any indictment or other document relating to such offence, in cases where the mode of trial

OFFENCE.	Class of Offence and Statute or Authority.
FOREIGN STATES—*continued.*	
204. *Illegal Shipbuilding and Illegal Expeditions.*] Any person, without licence from H. M., (1) building a ship with intent *or* knowledge that it will be employed in the military *or* naval service of a foreign state at war with a friendly state;—*or* (2) issues any commission for such ship;—*or* (3) equips such ship;—*or* (4) dispatches such ship. [MEM. *Sect.* 9 *contains provisions as to when evidence of an illegal ship is to be presumed against an offender. See* The Gauntlett *v.* Elliott, 26 *Law T., N. S.* 45.]	M. 33 & 34 Vict. c. 90, s. 8.
205. Any person, without the licence of H. M., aiding the warlike equipment of foreign ships.	M. Id. s. 10.
206. Any person, without the licence of H. M., fitting out naval *or* military expeditions against a foreign state.	M. Id. s. 11.
207. *Aiders.*] Any person who aids, abets, counsels, *or* procures the commission of any offence against the Act.	M. Id. s. 12.
FORGERY (*Notes* 61, 62).	
208. *Her Majesty's Seals.*] Forging *or* uttering the great seal, privy seal, royal sign manual, &c.,—*or* the stamp *or* impression thereof,—*or* uttering document with forged stamp, &c. thereon.	F. 24 & 25 Vict. c. 98, s. 1.
209. *Transfers of Stock, &c.*] Forging, &c. transfer of stock at Bank of England *or* of any company, *or* power of attorney relating thereto,—*or* demanding to act by virtue of forged power of attorney.	F. Id. s. 2.
210. Personating the owner of similar stock, and transferring *or* receiving, *or* endeavouring to transfer *or* receive, the dividends.	F. Id. s. 3.

require such a description, as having been committed at the place where it was wholly or partly committed, or it may be averred generally to have been committed within her Majesty's dominions, and the venue or local description in the margin may be that of the county, city or place in which the trial is held." By sect. 18, "The following authorities, that is to say, in the united kingdom any judge of a superior court, in any any other place within the jurisdiction of any British court of justice, such court, or if there are more courts than one, the court having the highest criminal jurisdiction in that place, may, by warrant or instrument in the nature of a warrant in this section included in the term 'warrant,' direct that any offender charged with an offence against this act shall be removed to some other place in her Majesty's dominions for trial in cases where it appears to the authority granting the warrant that the removal of such offender would be conducive to the interests of justice, and any prisoner so removed shall be triable at the place to which he is removed, in the same manner as if his offence had been committed at such place. Any warrant for the purposes of this section may be addressed to the master of any ship, or to any other person or persons, and the person or persons to whom such warrant is addressed shall have power to convey the

Page, &c. of Formalist.	Where triable.	As to Bail.	Punishment.	If Costs of Prosecution allowed.
..	(See *Note* 60).	Compulsory.	The same as stated in Offence 202; and ship, &c. forfeited to H. M. (s. 8). [MEM. *A proviso saves contracts made prior to commencement of war, on giving notice to secretary of state on issue of proclamation of neutrality* (s. 8).]	No.
..	Id.	Id.	The same as for Offence 202 (s. 10).	No.
..	Id.	Id.	The same as Offence 202, and ships, &c. forfeited to H. M. (s. 11).	No.
..	Id.	Id.	The same as a principal offender (s. 12).	No
..	Assizes (5 & 6 Vict. c. 38, *Note* 63).	Discretionary.	Pen. serv. life—5 yrs.; —*or* impr. not exc. 2 yrs., with *or* without h. l. and s. c. (s. 1).	Yes.
Nos. 198—202, pp. 549, 550.	Id.	Id.	The same (s. 2).	Yes.
Nos. 203, 204, p. 550.	Id.	Id.	The same (s. 3).	Yes.

soner therein named to any place or places named in such warrant, and to deliver m when arrived at such place or places, into the custody of any authority designated such warrant. Every prisoner shall, during the time of his removal under any such rrant as aforesaid, be deemed to be in the legal custody of the person or persons owered to remove him."

"FORGERY:" *Designation of Instruments—Copies by Photography—Documents made f England—Forms of Indictment—Intent to defraud.*] By 24 & 25 Vict. c. 98, s. 39, ere by this or by any other act any person is or shall hereafter be made liable to ishment for forging or altering, or for offering, uttering, disposing of, or putting knowing the same to be forged or altered, any instrument or writing designated in act by any special name or description, and such instrument or writing, however signated, shall be in law a will, testament, codicil, or testamentary writing, or a deed, d or writing obligatory, or a bill of exchange, or a promissory note for the payment of ney, or an indorsement on or assignment of a bill of exchange or promissory note for payment of money, or an acceptance of a bill of exchange, or an undertaking, warrant, der, authority or request for the payment of money, or an indorsement on or assignment

OFFENCE.	Class of Offence and Statute or Authority.
FORGERY—*continued.*	
211. Forging, &c. attestation to power of attorney for transfer of stock, &c.	F. 24 & 25 Vict. c. 98. s. 4.
212. Making false entries in the books of the public funds.	F. Id. s. 5.
213. Clerks of the Bank of England making out false dividend warrants. [*For the forgery of Stock Certificates to bearer, and personation of owners thereof, see* 26 *Vict. c.* 28, *ss.* 14, 15, 16.]	F. Id. s. 6.
214. *India Bonds.*] Forging, &c. any bond called East India bond, *or* relating to the East Indies. [*See* 26 *&* 27 *Vict. c.* 73, *ss.* 13, 14, 15, *as to forgery of India Stock Certificates.*]	F. Id. s. 7.
215. *Exchequer Bill, &c.*] Forging, &c. exchequer bills, bonds, *or* debentures, &c. [*See also* 34 *&* 35 *Vict. c.* 52, *s.* 4.]	F. Id. s. 8.

of an undertaking, warrant, order, authority or request for the payment of money, within the true intent and meaning of this act, in every such case the person forging or altering such instrument or writing, or offering, uttering, disposing of, or putting off such instrument or writing, knowing the same to be forged or altered, may be indicted as an offender against this act and punished accordingly." [The forgery must be of some document or writing (*Reg.* v. *Hodgson*, 1 Dears. & Bell, C. C. 3; 26 Law T. 144; *Reg.* v. *Closs*, 1 Dears. & Bell, C. C. 460; 27 L. J. (N. S.) M. C. 54; *Reg.* v. *Smith*, 1 Dears. & Bell C. C. 566; 27 L. J. (N. S.) M. C. 225; and may be done by means of photography *Reg.* v. *Rinaldi*, 33 L. J. (N. S.) M. C. 28; 9 Law T., N. S. 395).] By sect. 40, the offences of forging or uttering in England or Ireland documents purporting to be made, or actually made, *out* of England or Ireland, and the forging or uttering in England or Ireland bills of exchange, promissory notes, bonds, &c., purporting to be payable out of England or Ireland, are punishable in England or Ireland, in the same manner as if the document had purported to be made, or had been made, or as if payable, or purported to be payable *in* England or Ireland; see *ante*, pp. 903, 904; also *Reg.* v. *Jones*, 1 Den. C. C. 551; 19 L. J. (N. S.) M. C. 162; *Leech's Case*, 3 Dears. C. C. 642; 25 L. J. (N. S.) M. C. 77. By sect. 42, "in any indictment for forging, altering, offering, uttering, disposing of or putting off any instrument, it shall be sufficient to describe such instrument by any name or designation by which the same may be usually known, or by the purport thereof, without setting out any copy or facsimile thereof, or otherwise describing the same or the value thereof." By sect. 43, "in any indictment for engraving or making the whole or any part of any instrument, matter or thing whatsoever, or for using or having the unlawful custody or possession of any plate or other material upon which the whole or any part of any instrument, matter or thing whatsoever shall have been engraved or made, or for having the unlawful custody or possession of any paper upon which the whole or any part of any instrument, matter or thing whatsoever shall have been made or printed, it shall be sufficient to describe such instrument, matter or thing by any name or designation by which the same may be usually known, without setting out any copy or facsimile of the whole or any part of such instrument, matter or thing." By sect. 44, "it shall be sufficient, in any indictment for forging, altering, uttering, disposing of or putting off any instrument, whatsoever, where it shall be necessary to allege an intent to defraud, to allege that the

	Page, &c. of Formalist.	Where triable.	As to Bail.	Punishment.	If Costs of Prosecution allowed.
211	No. 205, p. 550.	Assizes (5 & 6 Vict. c. 38, *Note* 63).	Discretionary.	Pen. serv. 7—5 yrs.;—*or* impr. not exc. 2 yrs., h. l. and s. c. (s. 4).	Yes.
212	Nos. 206, 207, p. 550.	Id.	Id.	Same as Offence 208, *supra* (s. 5).	Yes.
213	..	Id.	Id.	Same as Offence 211, *supra* (s. 6).	Yes.
214	..	Id.	Id.	Same as Offence 208, *supra* (s. 7).	Yes.
215	..	Id.	Id.	The like (s. 8).	Yes.

party accused did the act with intent to defraud, without alleging an intent to defraud any particular person; and on the trial of any such offence it shall not be necessary to prove an intent to defraud any particular person, but it shall be sufficient to prove that the party accused did the act charged with an intent to defraud" (see *Reg.* v. *Hodgson*, 1 Dears. & Bell, C. C. 3; 25 L. J. (N. S.) M. C. 78). By sect. 48, all forgeries which were capital before the repealed Forgery Act of 11 Geo. 4 & 1 Will. 4, c. 66, and are not otherwise punishable under this act, are to be punished with penal servitude for life, or not less than three years, *or* imprisonment not exceeding two years, with or without hard labour and solitary confinement. See *Note* 62, *infra*, as to grant of Search Warrant.

62 *Search Warrant for Paper or Implements and forged Instruments.*] By 24 & 25 Vict. c. 98, s. 46, "if it shall be made to appear, by information on oath or affirmation before a justice of the peace, that there is reasonable cause to believe that any person has in his custody or possession, without lawful authority or excuse, any note or bill of the governor and company of the Bank of England or Ireland, or of any body corporate, company or person carrying on the business of bankers, or any frame, mould or implement for making paper in imitation of the paper used for such notes or bills, or any such paper, or any plate, wood, stone or other material having thereon any words, forms, devices or characters capable of producing or intending to produce the impression of any such note or bill, or any part thereof, or any tool, implement or material used or employed or intended to be used or employed in or about any of the operations aforesaid, or any forged security, document or instrument whatsoever, or any machinery, frame, mould, plate, die, seal, paper or other matter or thing used or employed or intended to be used or employed in the forgery of any security, document or instrument whatsoever, such justice may, if he think fit, grant a warrant to search for the same;—and if the same shall be found upon such search, it shall be lawful to seize and carry the same before some justice of the county or place, to be by him disposed of according to law;—and all such matters and things so seized as aforesaid shall by order of the court where any such offender shall be tried, or in case there shall be no such trial then by order of some justice of the peace, be defaced and destroyed or otherwise disposed of as such court or justice shall direct."

63 *Venue.*] By 24 & 25 Vict. c. 98, s. 41, "if any person shall commit any offence against this act,—or shall commit any offence of forging or altering any matter what-

OFFENCE.	Class of Offence and Statute or Authority.
FORGERY—*continued.*	
216. Making plates, &c. in imitation of those used for exchequer bills. [*See also* 29 *Vict. c.* 25, *ss.* 15, 20, 21.]	F. 24 & 25 Vict. c. 98. s. 9.
217. Making paper in imitation of that used for exchequer bills, &c.	F. Id. s. 10.
218. Having in possession paper, plates, *or* dies to be used for exchequer bills, &c. (*Note* 64).	M. Id. s. 11.
219. *Bank and Banker's Notes, &c.*] Forging, &c. note *or* bill of exchange of Bank of England, *or* of other bankers. [*See* Reg. *v.* Rinaldi, *in Note* 61, *ante, p.* 1085.]	F. Id. s. 12.
220. Purchasing *or* receiving, *or* having forged bank notes *or* bills (*Note* 64).	F. Id. s. 13.
221. Making *or* having mould for making paper with the words "Bank of England," *or* with curved bar lines, &c.,—*or* selling such paper (*Note* 64).	F. Id. s. 14.
222. Engraving *or* having any plate, &c., for making notes of Bank of England *or* other banks,—*or* having such plate, &c.,—*or* uttering *or* having paper upon which a blank bank note, &c. is printed (*Note* 64).	F. Id. s. 16.
223. Engraving on a plate, &c. any word, number *or* device, resembling part of a bank note *or* bill, *or* of note, &c. of other bankers,—*or* using *or* having any such plate, &c., —*or* uttering *or* having any paper on which any such word, &c. is impressed (*Note* 64).	F. Id. s. 17.
224. Making *or* having mould for making paper with the name of any banker,—*or* making *or* having such paper (*Note* 64).	F. Id. s. 18.
225. *Foreign Bills or Notes.*] Engraving plates for foreign bills *or* notes,—*or* using *or* having such plates,—*or* uttering paper on which any part of any such bill *or* note is printed (*Note* 64).	F. Id. s. 19.

soever,—or of offering, uttering, disposing of, or putting off any matter whatsoever, knowing the same to be forged or altered, whether the offence in any such case shall be indictable at common law, or by virtue of any act passed or to be passed,—every such offender may be dealt with, indicted, tried and punished in any county or place in which he shall be apprehended or be in custody in the same manner in all respects as if his offence had been actually committed in that county or place;—and every accessory before or after the fact to any such offence, if the same be a felony, and every person aiding, abetting, or counselling the commission of any such offence, if the same be a misdemeanor, may be dealt with, indicted, tried and punished in any county or place in which he shall be apprehended or be in custody, in the same manner in all

Page, &c. of Formulist.	Where triable.	As to Bail.	Punishment.	If Costs of Prosecution allowed.
..	Assizes (5 & 6 Vict. c. 38, *Note* 63).	Discretionary.	Pen. serv. 7—5 yrs;—*or* impr. not exc. 2 yrs., h. l. and s. c. (s. 9).	Yes.
..	Id.	Id.	The same (s. 10).	Yes.
..	Id. [*Qy.* Sessions.]	Compulsory.	Impr. not exc. 3 yrs., with *or* without h. l. (s. 11);—*or* fine and sureties (s. 51).	Yes (s. 54).
No. 208, p. 551.	Assizes (5 & 6 Vict. c. 38, *Note* 63).	Discretionary.	Same as Offence 208, *supra* (s. 12).	Yes.
No. 209, p. 551.	Id.	Id.	Same as Offence 222, *infra* (s. 13).	Yes.
Nos. 210—212, p. 551.	Id.	Id.	The like (s. 14).	Yes.
Nos. 213—217, p. 552.	Id.	Id.	Pen. serv. 14—5 yrs.;—or impr. not exc. 2 yrs., with *or* without h. l. and s. c. (s. 16).	Yes.
Nos. 218—220, pp. 552, 553.	Id.	Id.	Pen. serv. life—5 yrs.;—*or* impr. not exc. 2 yrs., with *or* without h. l. and s. c. (s. 17).	Yes.
Nos. 221—223, p. 553.	Id.	Id.	The same (s. 18).	Yes.
No. 224, p. 553.	Id.	Id.	The same (s. 19). [Reg. *v.* Rinaldi, *in Note* 61, ante, *p.* 1085, *was decided under this section.*]	Yes.

as if his offence and the offence of his principal had been actually committed county or place." [A person who is for the first time in custody at the time trial begins is within this section (*Reg.* v. *Smithies*, 4 Cox's C. C. 94; 19 L. J. M. C. 31).] As to offences within the jurisdiction of the Admiralty, see s. 50. *Interpretation as to Criminal Possession—Scotch Notes.*] By 24 & 25 Vict. c. 98, s. 45, the having any matter in the custody or possession of any person is in this act ed to be an offence, if any person shall have any such matter in his personal or possession, or shall knowingly and wilfully have any such matter in the custody or possession of any other person, or shall knowingly and wilfully have ch matter in any dwelling-house or other building, lodging, apartment, field, or

OFFENCE.	Class of Offence and Statute or Authority.
FORGERY—*continued.*	
226. *Deeds and Bonds.*] Forging, &c. any deed, bond *or* assignment of bond,—*or* the name of attesting witness thereto. [MEM. *Antedating one's own deed is a forgery*, Reg. *v.* Ritson, 39 *L. J.* (*N. S.*) *M. C.* 10.] [*The prisoner altered the name of the person ordained deacon so as to change it to his own, and made other alterations in letters of orders signed, sealed and issued under his episcopal seal by the Bishop of Bath and Wells; and it was held that such document was not a deed within the 20th section, and therefore the prisoner could not be convicted of felony under it.* Reg *v.* Morton, 42 *L. J.*, *M. C.* 58.]	F. 24 & 25 Vict. c. 98, s. 20.
227. *Wills.*] Forging, &c. any will, testament, codicil *or* testamentary instrument.	F. Id. s. 21.
228. *Bills of Exchange and Promissory Notes.*] Forging, &c. any bill of exchange, *or* acceptance, indorsement, *or* assignment thereof,—*or* any promissory note, *or* indorsement *or* assignment thereof.	F. Id. s. 22.
229. *Orders, Receipts, &c.*] Forging, &c. any undertaking, warrant, order, authority, *or* request for the payment of money, *or* delivery *or* transfer of goods, *or* any note, bill, *or* other security for money, *or* for procuring *or* giving credit,—*or* any indorsement of any such undertaking, &c. —*or* any accountable receipt, acquittance, *or* receipt for money, goods, note, bill, *or* security, *or* any indorsement on *or* assignment of an accountable receipt. [*See Note* 65.]	F. Id. s. 23.
230. Making *or* accepting any bill, note, &c. by procuration, without lawful authority,—*or* uttering any such bill, note, &c. so made *or* accepted,—with intent to defraud. [*See Note* 65.]	F. Id. s. 24.
231. Obliterating crossings on cheques.	F. Id. s. 25.
232. *Debentures.*] Forging, &c. any debenture issued under lawful authority.	F. Id. s. 26.
233. *Records.*] Forging, &c. proceedings of courts of record *or* courts of equity.	F. Id. s. 27.

other place, open or inclosed, whether belonging to or occupied by himself or not, and whether such matter shall be so had for his own use or for the use or benefit of another, every such person shall be deemed and taken to have such matter in his custody or possession within the meaning of this act." The note of a Scotch banking company is within sect. 16 (Offence 222), notwithstanding sect. 55 (*Reg.* v. *Brackenridge*, 37 L. J. (N. S.) M. C. 86; 18 Law T., N. S. 369).

65 *Cases on Offences* 229, 230.] A receipt of a depositor in a building society is either a "warrant," "authority," or "request" for the payment of money within sect. 24 (*Reg.* v. *Kay*, 39 L. J. (N. S.) M. C. 118; 22 Law T., N. S. 557). A guarantee for honesty is an undertaking for payment of money (*Reg.* v. *Joyce*, 34 L. J. (N. S.) M. C. 168; 12 Law T., N. S. 351); and so is an I O U (*Reg.* v. *Chambers*, 41 L. J. (N. S.) M. C. 15;

Page, &c. of Formulist.	Where triable.	As to Bail.	Punishment.	If Costs of Prosecution allowed.
Nos. 225—228, p. 554.	Assizes.	Discretionary.	Penal servitude life—5 years;—*or* imprisonment not exceeding 2 years, hard labour and solitary confinement (s. 20).	Yes.
No. 229, p. 554.	Id.	Id.	The same (s. 21).	Yes.
No. 230, p. 554.	Id.	Id.	The same (s. 22).	Yes.
Nos. 231—236, pp. 554, 555.	Id.	Id.	Penal servitude life, *or* for not less than 5 years;—*or* imprisonment not exceeding 2 years, with *or* without hard labour and solitary confinement (s. 23).	Yes.
No. 237, p. 555.	Id.	Id.	Pen. serv. 14—5 years;—*or* impr. not exc. 2 yrs., with *or* without h. l. and s. c. (s. 24).	Yes.
No. 238, p. 556.	Id.	Id.	Same as Offence 229, *supra* (s. 25).	Yes.
..	Id.	Id.	Same as Offence 230, *supra* (s. 26).	Yes.
..	Id.	Id.	Pen. serv. 7—5 yrs.;—*or* impr. not exc. 2 yrs., h. l. and s. c. (s. 27).	Yes.

Law T., N. S. 507); a pawnbroker's duplicate is an accountable receipt (*Reg.* v. *Fitchie*, L. J. (N. S.) M. C. 90; 1 Dears. & Bell, C. C. 175); or may be treated as a warrant the obtaining of goods (*Reg.* v. *Morrison*, 1 Bell, C. C. 158; 28 L. J. (N. S.) M. C. 10); a false entry of the receipt of money in a banker's pass-book is an accountable receipt (*Reg.* v. *Moody*, 1 Leigh & Cave, C. C. 173; 6 Law T., N. S. 301); but a railway ticket is not (*Reg.* v. *Gooden*, 11 Cox, C. C. 672, Cleasby, B.; and see *Reg.* v. *Smith*, Leigh & Cave, C. C. 168; 6 Law T., N. S. 300; and *Reg.* v. *French*, 39 L. J. (N. S.) M. C. 58; 21 Law T., N. S. 726); a turnpike toll-gate ticket is a receipt for money (*Reg.* v. *Fitch*, 1 Leigh & Cave, C. C. 159; 6 Law T., N. S. 256; *Reg.* v. *Horsley* Law T., N. S. 256).

OFFENCE.	Class of Offence and Statute or Authority.
FORGERY—*continued.*	
234. *Process.*] Forging, &c. copies *or* certificates of records, process of courts not of record,—*or* using forged process.	F. 24 & 25 Vict. c. 98, s. 28.
235. *Instruments of Evidence.*] Forging, &c. instruments made evidence by act of parliament.	F. Id. s. 29.
236. *Court Rolls.*] Forging, &c. court roll *or* copy of court roll.	F. Id. s. 30.
237. *Registers of Deeds.*] Forgery, &c. as to the registry of deeds.	F. Id. s. 31.
238. *Orders, &c. of Justices.*] Whosoever, with intent to defraud, shall forge *or* alter,—*or* shall offer, utter, dispose of, *or* put off, knowing the same to be forged *or* altered, any summons, conviction, order *or* warrant of any justice of the peace, *or* any recognizance purporting to have been entered into before any justice of the peace, *or* other officer authorized to take the same, *or* any examination, deposition, affidavit, affirmation, *or* solemn declaration, taken or made before any justice of the peace.	F. Id. s. 32.
239. *Accountant General.*] Forging, &c. name of Accountant General, &c. of the Court of Chancery.	F. Id. s. 33.
240. *Marriage Licences.*] Forging, &c. any licence of *or* certificate for marriage.	F. Id. s. 35.
241. *Demanding or receiving Property upon Forged Instruments.*] Whosoever, with intent to defraud, shall demand, receive, *or* obtain,—*or* cause *or* procure to be delivered *or* paid to any person, *or* endeavour to receive *or* obtain, *or* to cause *or* procure to be delivered *or* paid to any person, —any chattel, money, security for money, *or* other property whatsoever, under, upon, *or* by virtue of any forged *or* altered instrument whatsoever, knowing the same to be forged *or* altered,—*or* under, upon, *or* by virtue of any probate *or* letters of administration, knowing the will, testament, codicil, *or* testamentary writing on which such probate *or* letters of administration shall have been obtained to have been forged *or* altered, *or* knowing such probate *or* letters of administration to have been obtained by any false oath, affirmation *or* affidavit.	F. Id. s. 38.
242. Accessories *after* the fact in felonies.	F. Id. s. 49.
243. Aiders in any misdemeanor punishable under the act. [MEM. *There is only one such Misdemeanor, viz. Offence* 218.]	M. Id.
244. *National Debt.*] Forging register, certificate, transfer, &c., *or* personating nominees under act enabling Commissioners of the National Debt to grant annuities.	F. 2 & 3 Will. 4, c. 59, s. 19.

Page, &c. of Formalist.	Where triable.	As to Bail.	Punishment.	If Costs of Prosecution allowed.
..	Assizes (5 & 6 Vict. c. 38, *Note* 63).	Discretionary.	Pen. serv. 7—5 yrs.;—*or* impr. not exc. 2 yrs., h. l. and s. c. (s. 28).	Yes.
..	Id.	Id.	The same (s. 29).	Yes.
..	Id.	Id.	The same as Offence 229, *supra* (s. 30).	Yes.
..	Id.	Id.	Same as Offence 230, *supra* (s. 31).	Yes.
No. 239, p. 556.	Id.	Id.	Pen. serv. for 5 yrs.;—*or* impr. not exc. 2 yrs., with *or* without h. l. and s. c. (s. 32).	Yes.
..	Id.	Id.	Same as Offence 230, *supra* (s. 33).	Yes.
..	Id.	Id.	Same as Offence 233, *supra* (s. 35).	Yes.
Nos. 240, 241, p. 556.	Id.	Id.	Pen. serv. 14—5 yrs.;—*or* impr. not exc. 2 yrs., with *or* without h. l. and s. c. (s. 38).	Yes.
			[*See Offences* 195, 198, *title* "False Pretences."]	Yes.
..	Id.	Id.	Impr. not exc. 2 years, h. l. and s. c. (s. 49).	Yes.
..	Id.	Id.	As a principal offender (s. 49).	Yes (s. 54).
..	Id.	Id.	Pen. serv. life—5 yrs.;—*or* impr. not exc. 4 yrs., h. l. and s. c.	Yes.

OFFENCE.	Class of Offence and Statute or Authority.
FORGERY—*continued.*	
245. Forgery of stock certificates, &c. issued in pursuance of Part V. of "National Debt Act, 1870," 33 & 34 Vict. c. 71.	F. 33 & 34 Vict. c. 58. s. 3.
246. Personation of owners of same stock.	F. Id. s. 4.
247. Engraving plates, &c. for stock certificates, &c.	F. Id. s. 5.
248. Forgery of certificates of transfer of stocks from England to Ireland, &c.	F. Id. s. 6.
249. *Forging Certificates relating to Quarantine.*	F. 6 Geo. 4, c. 78, s. 25.
250. *Dies, &c. for stamping Gold or Silver Wares.*] Stamps on plate, *or* dies for marking, &c. gold *or* silver wares.	F. 7 & 8 Vict. c. 22, s. 2.
251. *Stamps.*] Of stamps on parchment, &c. [*See* 26 *Vict. c.* 7, *s.* 7, *as to forgery of Labels for tobacco duties, and tit.* "Stamps."]	F. 3 & 4 Will. 4, c. 97, s. 12.
252. *Official Documents.*] Of official documents, decrees, orders, private acts, &c.	F. 8 & 9 Vict. c. 113, s. 4; 7 & 8 Geo. 4, c. 28, s. 4; 11 &12 Vict. c. 78, s. 6.
253. *Probate Court.*] Forging seals *or* signatures to documents under the Probate Court Act, &c.	F. 21 & 22 Vict. c. 95, s. 33.
254. *Divorce Court.*] The like, Divorce Court. [MEM. *Forgery as to joint stock companies, see tit.* "Trading Companies." *There are numerous other forgeries of a local nature, or applicable to particular departments of government, which are either misdemeanors or felonies by statute.*]	F. 21 & 22 Vict. c. 108, s. 22.
255. *Proclamations, &c.*] Any person printing any copy of any proclamation, order, *or* regulation which falsely purports to have been printed by the government printer, *or* to be printed under the authority of the legislature of any British colony *or* possession, *or* tendering in evidence any copy of any proclamation, order, *or* regulation which falsely purports to have been printed as aforesaid, knowing that the same was not so printed; or 256. Forging *or* tendering in evidence, knowing the same to have been forged, any certificate by this act authorized to be annexed to a copy of *or* extract from any proclamation, order, *or* regulation.	F. 31 & 32 Vict. c. 37, s. 4.

Page, &c. of Formalist.	Where triable.	As to Bail.	Punishment.	If Costs of Prosecution allowed.
..	Assizes (5 & 6 Vict. c. 38) (*Note* 63).	Discretionary.	Pen. serv. life—5 yrs.; —*or* impr. not exc. 2 yrs., h. l. and s. c. (s. 3).	Yes.
..	Id.	Id.	The same (s. 4).	Yes.
..	Id.	Id.	Pen. serv. 14—5 yrs.;—*or* impr. not exc. 2 yrs., h. l. and s. c. (s. 5).	Yes.
..	Id.	Id.	The same as 245 (s. 6).	Yes.
..	Id.	Id.	Pen. serv. 7—5 yrs.;—*or* impr. not exc. 2 yrs., h. l. and s. c.	Yes.
..	Id.	Id.	Pen. serv. 14—5 yrs.;—*or* impr. not exc. 3 yrs. with h. l.	Yes.
..	Id.	Id.	Pen. serv. life—5 yrs.; —*or* impr. not exc. 4 years.	Yes.
..	Id.	Id.	Pen. serv. 7—5 yrs.;—*or* impr. not exc. 3 yrs. and h. l.	Yes.
..	Id.*	Id.	Pen. serv. life—7 yrs.; —*or* impr. 3—1 yrs. (s. 33).	Yes.
..	Id.*	Id.	The same (s. 22). *[*By these acts the Offences 253, 254, may be tried in the county, &c. in which the offender is apprehended or is in custody.*]	Yes.
55 } 56 } ..	Id.	Id.	Pen. serv. for such term as is prescribed by the Penal Servitude Act, 1864, as the least term to which an offender can be sentenced to pen. serv. [*i. e.* not less than 5 yrs., 27 & 28 Vict. c. 47, s. 2, *ante*, p. 1006];—*or* to be impr. for any term not exc. 2 yrs., with *or* without h. l. (s. 4).	Yes.

OFFENCE.	Class of Offence and Statute or Authority.
FORGERY—*continued.*	
256a. Forging *or* counterfeiting any certificate required by "The Agricultural Children Act, 1873," *or* gives *or* signs any such certificate falsely, *or* makes use of any forged, counterfeited *or* false certificate, &c.	M. 36 & 37 Vict. c. 67, s. 13.
256b. Forging the seal *or* signature of any document mentioned in "The Municipal Corporations Evidence Act, 1873," *or* tending in evidence any such document with a false *or* counterfeit seal *or* signature thereto.	M. 36 & 37 Vict. c. 33, s. 4.
256c. Forging *or* counterfeiting any licence, certificate, document *or* plan granted *or* required in pursuance *or* for the purposes of "The Explosives Act, 1875," *or* giving *or* signing any such document *or* plan, *or* wilfully makes use of any such.	M. 38 Vict. c. 17.
256d. Forging *or* counterfeiting any certificate required by the 8th section of "The Coal Mines Regulation Act, 1872," *or* gives, &c. any such certificate.	M. 35 & 36 Vict. c. 76, s. 8.
256e. Forging, &c. statement in certificate of competency under "The Coal Mines Regulation Act, 1872."	M. Id. s. 37.
257. *At Common Law.*] Forging *or* uttering instruments not provided for by statute, with intent to defraud *or* to deceive, &c. [*Arch. Cr. Pl. by Bruce, 16th ed. p.* 556]. [*See titles* "Admiralty," "Personation," "Registers."]	M. Common Law.
FRAUD. *See tit.* "False Pretences," *Offence* 15, *ante, p.* 1016, *and Offences* 238, 241, *tit.* "Forgery."	..
FRAUDULENT TRUSTEES (*Notes* 66, 67).	
258. *Bankers, &c. selling Property.*] Whosoever, being a banker, merchant, broker, attorney, *or* agent, and being intrusted, either solely *or* jointly with any other person, with the property (*Note* 68) of any other person for safe custody shall, with intent to defraud, sell, negotiate, transfer, pledge, *or* in any manner convert *or* appropriate the same *or* any part thereof to *or* for his own use *or* benefit, *or* the use *or* benefit of any person other than the person by whom he was so intrusted.	M. 24 & 25 Vict. c. 96, s. 76.
259. *Persons under Powers selling Property.*] Whosoever, being intrusted, either solely, *or* jointly with any other person, with any power of attorney for the sale *or* transfer of any property, shall fraudulently sell *or* transfer *or* otherwise convert the same *or* any part thereof to his own use *or* benefit, *or* the use *or* benefit of any person other than the person by whom he was so intrusted.	M. Id. s. 77.

66 "FRAUDULENT TRUSTEES:" *Apprehension of Offenders without Warrant—Restitution of Property.*] *Note* 78, to tit. "*Larceny*" is applicable to the offences under this title also; but see observations in *Note* 54, *ante*, p. 1075.

67 *Disclosures before Prosecution.*] *Note* 8, *ante*, p. 1018, title "*Agents.*"

68 *Definitions of "Property" and "Trustee"—Who to prosecute for Offence* 260.] By 24 & 25 Vict. c. 96, s. 1 (*inter alia*), "the term 'property,' shall include every description of real and personal property, money, debts and legacies, and all deeds and instru-

Page, &c. of Formulist.	Where triable.	As to Bail.	Punishment.	If Costs of Prosecution allowed.
..	Assizes.	Compulsory.	Impr. not exc. 3 m., with or without h. l.	Yes.
..	Id.	Id.	Impr. not exc. 3 yrs. nor less than 1 yr., with h. l.	Yes.
..	Id.	Id.	Impr. not exc. 2 yrs., with or without h. l.	Yes.
..	Id.	Id.	Impr. not exc. 3 m., with or without h. l.	Yes.
..	Id.	Id.	Impr. not exc. 2 yrs., with or without h. l.	Yes.
No. 242, p. 557.	Assizes (5 & 6 Vict. c. 38, *Note* 63).	Id.	Fine, *or* imprisonment, *or* both. [*See also as to the Offence* 2 *Russ. on Cr.* 4*th ed. pp.* 709, 766.]	No.
No. 244, p. 557.	Assizes (s. 87).	Discretionary.	Pen. serv. 7—5 yrs.;—*or* impr. not exc. 2 yrs., with *or* without h. l. and s. c. (s. 75). [*See Note* 68 *for definition of* "property."]	Yes (s. 121).
No. 245, p. 557.	Id.	Id.	The same.	Id.

ts relating to or evidencing the title or right to any property, or giving a right to over or receive any money or goods, and shall also include not only such property shall have been originally in the possession or under the control of any party, but any property into or for which the same may have been converted or exchanged, anything acquired by such conversion or exchange, whether immediately or otherwise: the term 'trustee' shall mean a trustee on some express trust created by some d, will or instrument in writing [an officer of a savings' bank is within this defini-

OFFENCE.	Class of C and Statute or A
FRAUDULENT TRUSTEES—*continued.*	
260. *Trustees disposing of Property.*] Whosoever, being a trustee of any property for the use or benefit, either wholly *or* partially, of some other person, *or* for any public *or* charitable purpose, shall, with intent to defraud, convert *or* appropriate the same *or* any part thereof to or for his own use *or* benefit, *or* the use *or* benefit of any person other than such person as aforesaid, *or* for any purpose other than such public *or* charitable purpose as aforesaid,—*or* otherwise dispose of *or* destroy such property *or* any part thereof.	M. 24 & 25 V s. 80.
261. *Director, &c. appropriating Property.*] Whosoever, being a director, member *or* puplic officer of any body corporate *or* public company, shall fraudulently take *or* apply for his own use *or* benefit, *or* for any use *or* purposes other than the use *or* purposes of such body corporate *or* public company, any of the property of such body corporate or public company.	M. Id. s.
262. *Director, &c. keeping Fraudulent Accounts.*] Whosoever, being a director, public officer *or* manager of any body corporate *or* public company shall as such receive *or* possess himself of any of the property of such body corporate *or* public company otherwise than in payment of a just debt *or* demand, and shall, with intent to defraud, omit to make, *or* to cause *or* direct to be made, a full and true entry thereof in the books and accounts of such body corporate *or* public company.	M. Id. s.
263. *Director, &c. destroying Books, &c.*] Whosoever, being a director, manager, public officer *or* member of any body corporate *or* public company shall, with intend to defraud, destroy, alter, mutilate, *or* falsify any book, paper, writing, *or* valuable security belonging to the body corporate *or* public company,—*or* make *or* concur in the making of any false entry, *or* omit *or* concur in omitting any material particular, in any book of account *or* other document.	M. Id. s. 8
264. *Director, &c. publishing Fraudulent Statements.*] Whosoever, being a director, manager, *or* public officer of any body corporate *or* public company, shall make, circulate, *or* publish,—*or* concur in making, circulating, *or* publishing,—any written statement *or* account which he shal know to be false in any material particular, with intent to deceive *or* defraud any member, shareholder *or* creditor of such body corporate *or* public company, *or* with intent to induce any person to become a shareholder *or* partner therein, *or* to intrust *or* advance any property to such body corporate *or* public company, *or* to enter into any security for the benefit thereof.	M. Id. s. 84.

tion and sect. 80; see *Reg.* v. *Fletcher*, 31 L. J. (N. S.) M. C. 206; 1 Leigh & C. C. 180], and shall include the heir, or personal representative of any such tr and any other person upon or to whom the duty of such trust shall have devolv come, and also an executor and administrator, and an official manager, assignee, l dator, or other like officer acting under any present or future act relating to joint

Page, &c. of Paraallel.	Where triable.	As to Bail.	Punishment.	If Costs of Prosecution allowed.
Nos. 246, 247, p. 558.	Assizes (s. 87).	Discretionary.	The same as Offence 259, *supra* (s. 75). [MEM. *See definitions of* "trustee" *and* "property" *in Note* 68, *and who is to sanction the prosecution for this offence.*]	Yes (s. 121).
No. 248, p. 558.	Id.	Id.	The same as Offence 259, *supra* (s. 75). [*See Note* 68 *for definition of* "property."]	Id.
No. 249, p. 558.	Id.	Id.	The same.	Id.
No. 250. p. 559.	Id.	Id.	The same as Offence 259, *supra* (s. 74). [*See definition of* "Valuable Security," *Note* 80, *tit.* "Larceny."]	Id.
No. 251, p. 559.	Id.	Id.	Pen. serv. 7—5 yrs.;—*or* impr. not exc. 2 yrs., with *or* without h. l. and s. c. (s. 75). [*See Note* 68, *for definition of* "property."] [*See also tit.* "Agents." *Receiving the property acquired, see tit.* "Receivers."]	Id.

panies, bankruptcy, or insolvency." The section 80 (Offence 260), contains a vision, "that no proceeding or prosecution for any offence included in this section shall be commenced without the sanction of her Majesty's Attorney-General, or, in case that office be vacant, of her Majesty's Solicitor-General [which is obtained on a petition or memorial of the facts, accompanied by a statutory declaration of their truth, and

OFFENCE.	Class of Off and Statute or Au
FRIENDLY SOCIETIES.	
265. Circulating false copies of rules *or* alterations of rules of an enrolled friendly society. [MEM. *Frauds on societies, or officers withholding or misapplying their monies, see Offences*, 1, 3, *Vol. I., p.* 438; *also* "Trades Unions," *post.*]	M. 18 & 19 Vic s. 29.
GAME (NIGHT POACHING).	
266. Taking game *or* rabbits by night,—*or* using net, &c. for taking same on land [*or* public road, 7 & 8 Vict. c. 29, s. 1]—after two previous summary convictions (Vol. I., p. 454, *Offences* 35—37).	M. 9 Geo. 4, c. (*Note* 69)
267. Offenders found committing Offence 266, and assaulting keeper with gun, &c.	Id. s. 2.
268. Three *or* more persons together by night unlawfully entering *or* being on land, open *or* inclosed, to take *or* destroy game *or* rabbits, any of them being armed with any gun, crossbow, firearms, bludgeon, *or* any other offensive weapon (*Note* 70).	Id. s. 9.
269. Whosoever shall unlawfully and wilfully, between the expiration of the first hour after sunset and the beginning of the last hour before sunrise, take *or* kill any hare *or* rabbit in any warren *or* ground lawfully used for the breeding *or* keeping of hares *or* rabbits, whether the same be inclosed *or* not. [MEM. *The section is not to affect persons taking in the daytime* [i. e. *between* 6 *a. m. and* 9 *p. m.*] *rabbits in the Lincolnshire banks* (*s.* 17).]	M. 24 & 25 Vict. s. 17 (*Note* 7
GAMING.	
270. Cheating at play [to be deemed guilty of obtaining money under false pretences. *See* Reg. *v.* Hudson, 2 *Law T., N. S.* 263; 8 *Cox, C. C.* 305; *and the cases in Note* 55, *ante, p.* 1058, *under tit.* "False Pretences."]	M. 8 & 9 Vict. c. s. 17.
GAMING HOUSES.	
271. Keeping a common gaming house—[*i. e.* a betting house, see 16 & 17 Vict. c. 119, s. 2; and a gaming house, 8 & 9 Vict. c. 109, s. 4, and 17 & 18 Vict. c. 38, s. 2, *Note* 72.] [*See as to Summary Convictions, tit.* "Betting Houses," *Vol. I. p.* 312; *and* "Gaming Houses," *Vol. I. p.* 458.]	M. Common L
GIRL. *See titles* "Carnally knowing Females," "Women."	

the warrant is granted by a justice on sufficient evidence of the offence being gi provided also, that where any civil proceeding shall have been taken against any p to whom the provisions of this section may apply, no person who shall have taken civil proceeding shall commence any prosecution under this section, without the tion of the court or judge before whom such civil proceeding shall have been ha shall be pending."

69 "GAME AND NIGHT POACHING:" *Apprehension of Offenders without Warrant—of Prosecution—Definitions of "Night" and "Game."*] As to the power to appre offenders, see *Note* 185, Vol. I. p. 454. The 14 & 15 Vict. c. 19, s. 11, also gives power (see *ante*, p. 913). The prosecution for offences under 9 Geo. 4, c. 69, mus

Page, &c. of Pamphlet.	Where triable.	As to Bail.	Punishment.	If Costs of Prosecution allowed.
No. 252, p. 559.	Sessions.	Compulsory.	Fine, *or* imprisonment, *or* both.	No.
No. 253, p. 560.	Sessions.	Compulsory.	Pen. serv. 7—5 yrs.;—*or* impr. with h. l. for not exc. 2 yrs. (20 & 21 Vict. c. 3, s. 2).	No.
No. 254, p. 560.	Id.	Id.	The same.	No.
No. 255, p. 560.	Assizes (s. 9).	Id.	Pen. serv. 14—5 yrs.;—*or* impr. and h. l. not exc. 3 yrs. (20 & 21 Vict. c. 3, s. 2).	No.
No. 256, p. 560.	Sessions.	Discretionary.	Fine, *or* imprisonment, *or* both [Com. Law]; but not sureties (see s. 117).	Yes (s. 121).
No. 257, p. 560.	Sessions.	Discretionary.	Pen. serv. 5 years;—*or* impr. not exc. 2 years, with *or* without h. l. and s. c. (24 & 25 Vict. c. 96, s. 88).	Yes (24 & 25 Vict. c. 96, s. 121; 14 & 15 Vict. c. 55, *ante*, p. 983).
No. 258, p. 561.	Sessions.	Compulsory.	Fine, *or* imprisonment, *or* both.	No.

mmenced within twelve calendar months (sect. 4). The laying the information or rehending the accused would be a commencement (see *R.* v. *Brooks*, 1 Den. C. C. ; *R.* v. *Austen*, 1 C. & K. 621; *Reg.* v. *Hull*, 2 F. & F. 16; *Reg.* v. *Parker*, 1 Leigh Cave, C. C. 459; 10 Law T., N. S. 463. The "night" is defined by 9 Geo. 4, 69, s. 12, to be from the expiration of the first hour after sunset until the beginning the last hour before sunrise; and "game" to be "hares, pheasants, partridges, use, heath or moor game, black game and bustards." As to evidence of previous viction, see sect. 8, and *Cureton* v. *Reg.*, 30 L. J. (N. S.) M. C. 149; 4 Law T., N. 286.

70 *Decisions on Offence* 268.] It is not essential that all the prisoners charged should

OFFENCE.	Class of Of and Statute or Au
GOVERNMENT. Offences against, *see tits.* "Arms," "Arson," "Coin," "Escape, &c.," "Foreign Service," "Naval Discipline," "Oaths (Unlawful)," "Public Service," "Queen," "Treason."	
GRANARY. Destroying and taking grain therefrom, see 36 Geo. 3, c. 9, ss. 1, 2; and *see tit.* "Riots."	
GUNPOWDER (*Notes* 73, 74).	
272. Whosoever shall unlawfully and maliciously, by the explosion of gunpowder *or* other explosive substance, destroy, throw down *or* damage the whole *or* any part of any dwelling-house, any person being therein,—*or* of any building, whereby the life of any person shall be endangered.	F. 24 & 25 Vic s. 9.
273. Whosoever shall unlawfully and maliciously place *or* throw in, into, upon, under, against *or* near any building any gunpowder *or* other explosive substance, with intent to destroy *or* damage any building, *or* any engine, machinery, working tools, fixtures, goods *or* chattels, whether *or* not any explosion takes place, and whether *or* not any damage be caused.	F. Id. s. 1
274. Whosoever shall unlawfully and maliciously place *or* throw in, into, upon, against *or* near any ship *or* vessel any gunpowder *or* other explosive substance, with intent to destroy *or* damage any ship *or* vessel, *or* any machinery, working tools, goods *or* chattels, whether *or* not any explosion takes place, and whether *or* not any injury be effected.	F. Id. s. 4
275. Whosoever shall make *or* manufacture,—*or* knowingly have in his possession,—any gunpowder *or* other explosive substance, *or* any dangerous *or* noxious thing, *or* any machine, engine, instrument *or* thing, with intent thereby *or* by means thereof to commit, *or* for the purpose of enabling any other person to commit, any of the felonies in this act mentioned.	M. Id. s. 54.
276. Whosoever shall knowingly have in his possession,—*or* make *or* manufacture,—any gunpowder, explosive substance *or* any dangerous *or* noxious thing, *or* any machine, engine, instrument *or* thing, with intent by means thereof to commit *or* for the purpose of enabling any other person to commit, any of the felonies in this act mentioned.*	M. 24 & 25 Vict. c. s. 64.
HOPBINDS. *See* Offence 349, *tit.* "Malicious Injuries."	

actually enter the land; but if they are associated together for the common purpo taking game contrary to the statute, and some of the party actually enter such pla effect that purpose, while the others remain near enough to aid and assist, they ma be convicted under an indictment charging them with being in such place for purpose (*Reg.* v. *Whittaker and others*, 17 L. J. (N. S.) M. C. 127; 11 Law T. J *Reg.* v. *Uezzell*, 20 L. J. (N. S.) M. C. 192; *Reg.* v. *Wood*, 25 L. J. (N. S.) M. C. 1 Dears. & Bell's C. C. 1).

71 *Apprehension of Offenders without Warrant.*] *Note* 73, to tit. "*Larceny*," *pos* applicable here.

Page, &c. of Formulist.	Where triable.	As to Bail.	Punishment.	If Costs of Prosecution allowed.
No. 261, p. 562.	Assizes (5 & 6 Vict. c. 38).	Discretionary.	Pen. serv. life—5 yrs.; —*or* impr. not exc. 2 yrs., with *or* without h. l., s. c. and, if a male under 16, w. (s. 9).	Yes.
No. 262, p. 562.	Sessions.	Id.	Pen. serv. 14—5 yrs.; —*or* impr. not exc. 2 yrs., with *or* without h. l., s. c. and, if a male under 16, w. (s. 10).	Yes.
No. 263, p. 562.	Id.	Id.	The same (s. 45).	Yes.
No. 264, p. 562.	Id.	Id.	Impr. for not exc. 2 yrs., with *or* without h. l., s. c. and, if a male under 16, w. (s. 54).	Yes (s. 77).
No. 265, p. 562.	Id.	Id.	The same (s. 64). *[*Further Offences as to Gunpowder, see Offences* 49, 50, 51, *tit.* "Assaults:" *Offence* 66, *tit.* "Attempts to Murder."]	Yes (s. 77).

2 "GAMING HOUSES:" *Prosecution.*] By 22 & 23 Vict. c. 17, *ante*, pp. 876, 877, indictment cannot be preferred for "keeping a gambling house" without a previous uiry before justices, or the order of a judge, &c.

3 "GUNPOWDER:" *Apprehension of Offenders without Warrant.*] Under 24 & 25 t. c. 97, see *Note* 90, to tit. "*Malicious Injuries*," *post.*

4 *Search Warrant for Gunpowder, &c.*] By 24 & 25 Vict. c. 100, s. 65, and 24 & 25 t. c. 97, s. 55, a justice of the county, &c., in which any gunpowder, machine, &c., ationed in these offences is suspected to be made, &c., on cause assigned upon oath, y grant a warrant for searching in the daytime any house, mill, magazine, store-

OFFENCE.	Class of Off and Statute or Aut
HORSES, Stealing or killing. *See tit.* "Cattle."	..
HOUSEBREAKING (*Note* 75).	
277. Whosoever shall break and enter any building, and commit any felony therein, such building being within the curtilage of a dwelling-house, and occupied therewith, but not being part thereof, according to the provision hereinbefore mentioned [s. 53, *Note* 27, *ante*, p. 1047],—*or* being in any such building shall commit any felony therein, and break out of the same.	F. 24 & 25 Vict s. 55.
278. Whosoever shall break and enter any dwelling-house, school-house, shop, warehouse, *or* counting-house, and commit any felony therein,—*or*, being in any dwelling-house, school-house, shop, warehouse, *or* counting-house, shall commit any felony therein, and break out of the same.	F. Id. s. 5
279. Whosoever shall break and enter any dwelling-house, church, chapel, meeting-house, *or* other place of divine worship,—*or* any building within the curtilage, school-house, shop, warehouse *or* counting-house,—with intent to commit any felony therein.	F. Id. s. 5
280. Whosoever shall be found by night* armed with any dangerous *or* offensive weapon *or* instrument whatsoever with intent to break *or* enter into any dwelling-house *or* other building whatsoever, and to commit any felony therein,	M. Id. s. 58 [*See Note* 76 *a supervision of po*
or	
281. Shall be found by night* having in his possession† without lawful excuse (the proof of which excuse shall lie on such person) any picklock key, crow, jack, bit, *or* other implement of housebreaking [*not necessarily with the intent to commit a felony, see* Reg. v. Bailey, 1 *Dears. C. C.* 244; 23 *L J.* (*N. S.*) *M. C.* 13],	
or	
282. Shall be found by night* having his face blackened *or* otherwise disguised with intent to commit any felony,	
or	
283. Shall be found by night* in any dwelling-house *or* other building whatsoever with intent to commit any felony therein.	
284. Whosoever shall be convicted of any such misdemeanor as in the last preceding section mentioned, committed after a previous conviction, either for felony *or* such misdemeanor. [*Stealing in a dwelling-house, see Offence* 317, *tit.* "Larceny;" *and see tit.* "Burglary."]	M. Id. s. 59.

house, &c., or carriage, boat, &c., where the same is suspected to be made, ke carried "for the purpose of being used in committing any of the felonies" in t acts mentioned, and to seize the same with the barrels, &c.; persons executing warrant having the same powers as are given to persons by the Gunpowder Act, 24 Vict. c. 139. *Vide* Forms of the Information and Search Warrant, Oke's "*Fo list*," 6th ed. Nos. 259, 260, p. 561.

Page, &c. of Formalist.	Where triable.	As to Bail.	Punishment.	If Costs of Prosecution allowed.
..	..	..	[MEM. *Slaughtering without licence, &c., see* "MEM." *to tit.* "Cattle," *ante*, p. 1048.]	..
Nos. 266, 267, pp. 562, 563.	Sessions.	Discretionary.	Pen. serv. 14—5 yrs.; —*or* impr. not exc. 2 yrs., with *or* without h. l. and s. c. (s. 55).	Yes.
Nos. 268, 269, p. 563.	Id.	Id.	The same (s. 56). [MEM. *This offence extends also to buildings within the curtilage, s.* 53, *Note* 27, *ante, p.* 1047.]	Yes
No. 270, p. 563.	Id.	Id.	Pen. serv. 7—5 yrs.;—*or* impr. not exc. 2 yrs., with *or* without h. l. and s. c. (s. 57).	Yes.
No. 271, p. 563.	Id.	Id.	Pen. serv. 5 yrs.;—*or* impr. not exc. 2 yrs., with *or* without h. l. (s. 58), and sureties for the peace (s. 117). [MEM. *The offender may, instead, be dealt with under the Vagrant Act, see Offences* 20—23, *p.* 824.] *[*See Note* 27, *ante, p.* 1047, *for definition of* "night."] †[*The possession of one is the possession of all if more than one concerned* (R. *v.* Thompson, 21 *Law T., N. S.* 397).]	Yes. (s. 121).
No. 272, p. 564.	Id.	Id.	Pen. serv. 10—5 yrs.; —*or* impr. not exc. 2 yrs., with *or* without h. l. (s. 59).	Id.

75 "HOUSEBREAKING:" *Apprehension of Offenders without Warrant—Restitution of Property—Building within Curtilage.*] *Note* 78, to tit. "*Larceny,*" *post*, is applicable here; see also *Note* 27, *ante*, p. 1047, as to building within the curtilage.

76 *Police Supervision of Offenders committing Offences* 280—283.] By the "Prevention of Crimes Act, 1871," 34 & 35 Vict. c. 112, s. 8 (set out *ante*, p. 1009), persons convicted of "any misdemeanor under the 58th section of the act 24 & 25 Vict. c. 96"

OFFENCE.	Class of Offence and Statute or Authority.
INDECENCY.	
285. Exposing person naked in a public place to public view; —*or* any notorious lewdness *or* scandalous conduct which openly outrages decency. [*See Note 77 for cases.*] [*An obscene exhibition in a booth on a race-course, with closed doors, to a number of spectators who have paid for their admission upon the invitation of the keepers of the booth to the general public, is a misdemeanor at common law* (Reg. *v.* Saunders, 45 *L. J., M. C.* 11).]	M. Common Law.
286. Printing, publishing, *or* exposing to public view, obscene writings *or* prints [R. *v.* Curl. 2 *Str.* 788],—*or* procuring same with a view to publication [Dugdale *v.* Reg., 22 *L. J.* (*N. S.*) *M. C.* 50]. [*See tit.* "Vagrants," *Offences* 12, 13, *ante, p.* 820.] [*See also* 20 *&* 21 *Vict. c.* 83, *as to grant of search warrant for obscene works set out in tit.* "Obscene Books," *Chap. II. of Part III., and cases of* Reg. *v.* Grey, 4 *F. & F.* 73, *Willes*, J.; Reg. *v.* Hicklin, 37 *L. J.* (*N. S*) *M. C.* 89.]	Id.
INDECENT ASSAULTS. *See Offences* 58, 59, *tit.* "Assaults."	
INDIA, Misdemeanors in, see 13 Geo. 3, c. 63.	
INSURANCE COMPANIES.	
[Frauds or alterations of books of accounts by directors or officers.]	7 & 8 Vict. c. 110, s. 31; Id. c. 111, s. 30.
JESUITS coming into this realm, &c., see 10 Geo. 4, c. 7.	
JOINT STOCK COMPANIES. *See titles* "Banking Shares," "Fraudulent Trustees," "Trading Companies."	
JUSTICE OF THE PEACE. *See tit.* "Magistrate," *and Offence* 52, *tit.* "Assaults."	
KIDNAPPING.	
287 . . . . [*See* 31 *Car.* 2, *c.* 2, *s.* 12; 1 *Russ. on Cr., 4th ed. p.* 962.]	M. Common Law.

(which is a "crime" as defined by sect. 20 of that act, in *Note* *, *ante*, p. 951), after a previous conviction of a "crime," may be adjudged to be subject to police supervision for not exceeding seven years.

77 "INDECENCY:" *Cases on Offence* 285, *for Indecent Exposure of the Person in a Public Place.*] See *Reg.* v. *Webb*, 1 Den. C. C. 338; 2 C. & K. 993. The following exposures have been held to be indictable:—*Reg.* v. *Elliott*, 1 Leigh & Cave, C. C. 103; *Reg.* v. *Holmes*, 22 L. J. (N. S.) M. C. 122 (in a public omnibus, in the view of persons travelling therein); *Reg.* v. *Thallman*, 33 L. J. (N. S.) M. C. 58; 1 Leigh & Cave, C. C. 325 (on a roof of a house, where it was seen from back windows of other houses); *Reg.* v. *Farrell*, 9 Cox, C. C. 446 (anywhere the exposure may be seen by more than one person); *Reg.* v. *Reed*, 12 Cox, C. C. 1 (bathing near a public footway, without screen or covering); *Reg.* v. *Harris*, 40 L. J. (N. S.) M. C. 67; 24 Law T., N. S. 74 (in a public urinal adjacent to a footpath, although divided into compartments, is such a public place as to render an act of indecency committed there and observed by two persons outside an indictable nuisance).

78 "LARCENY:" *Apprehension of Offenders in the Commission of the Offences without Warrant—Search Warrant—Three Larcenies within Six Months—Several Takings—*

Page, &c. of Formulist.	Where triable.	As to Bail.	Punishment.	If Costs of Prosecution allowed.
No. 272, 554; also Nos. 60—63, p. 524.	Sessions.	Discretionary, as to wilful and indecent exposure of the person (7 Geo. 4, c. 64, s. 23).	Fine *or* impr. [with h. l., 14 & 15 Vict. c. 100, s. 29], *or* both. [*See* 1 *Russ. on Crimes, by Greaves, 4th ed.* 449—451.	Yes, in Offence named in column "As to Bail" (*see* 14 & 15 Vict. c. 55, s. 1).
Nos. 274, 275, p. 564.	Id.	Compulsory.	Fine *or* impr. [with h. l., 14 & 15 Vict. c. 100, s. 29], *or* both.	No.
..	..	..	[*See Offences* 261—264, *tit.* "Fraudulent Trustees."]	..
..	Sessions.	Compulsory.	Fine *or* imprisonment, *or* both.	No.

tment for Stealing and Receiving—Restitution of Property—Larceny by Finding.] By 25 Vict. c. 96, s. 103, "any person *found committing* any offence punishable, er by indictment or upon summary conviction, by virtue of this act, except only the ace of angling in the daytime, may be *immediately* apprehended without a warrant ny person, and forthwith taken, together with such property, if any, before some jabouring justice of the peace, to be dealt with according to law. [This enactment ld not apply to many of the offences, as they are not visible to the eye at the time, Hurley v. *Rogers*, 29 L. J. (N. S.) M. C. 140; 2 Law T., N. S. 171; *Orchard* v. berts, 9 Law T., N. S. 727; 28 J. P. 54; *Downing* v. *Capel*, 36 L. J. (N. S.) M. C. ; 16 Law T., N. S. 323];—and if any credible witness shall prove upon oath before ustice of the peace a reasonable cause to suspect that any person has in his possession on his premises any property whatsoever on or with respect to which any offence nishable either upon indictment or upon summary conviction by virtue of this act, ll have been committed, the justice may grant a warrant to search for such pro- rty as in the case of stolen goods;—and any person to whom any property *shall be fered to be sold, pawned, or delivered*, if he shall have reasonable cause to suspect that y such offence has been committed on or with respect to such property, is hereby

OFFENCE.	Class of Off and Statute or Au
LARCENY (*Note* 78).	
288. *Simple.*] Whosoever shall be convicted of simple larceny [the definition of which is,—the wrongful or fraudulent taking or carrying away by any person of the mere personal goods of another, from any place with a felonious intent, *i. e.*, without any colour of right, to convert them to his (the taker's) own use, and make them his own property, without the consent of the owner, and against his will. See 2 Russ. on Cr., 4th ed. p. 146].	F. Common
289. *As Bailee.*] Whosoever, being a bailee of any chattel, money, *or* valuable security [*definition*, *Note* 80], shall fraudulently take *or* convert the same to his own use, *or* the use of any person other than the owner thereof, *although he shall not break bulk or otherwise determine the bailment*, shall be guilty of larceny, and may be convicted thereof upon an indictment for larceny (*Note* 80).	F. 24 & 25 Vict s. 3.

authorized, and, if in his power, is required to apprehend and forthwith to take a justice of the peace, the party offering the same, together with such property dealt with according to law." [In the Metropolis the police may apprehend offenders conveying property, see 2 & 3 Vict. c. 47, s. 66; 2 & 3 Vict. c. xciv. By sect. 104, "any constable or peace officer may take into custody, without w any person whom he shall find lying or loitering in any highway, yard or othe during the night [defined by sect. 1; see *ante*, p. 1047, *Note* 27], and whom he sha good cause to suspect of having committed, or being about to commit, any felony a this act—and shall take such person, as soon as reasonably may be, before a jus the peace, to be dealt with according to law." By sect. 5, three larcenies com against the same person within six [calendar, 13 & 14 Vict. c. 21, s. 4] months m charged in one indictment; and where a single taking is charged and several ta at different times are proved, prosecutor need not elect which, where not more three (sect. 6). (See *Reg.* v. *Henwood*, 11 Cox, C. C. 526; 22 Law T., N. S. 486 v. *Firth*, 38 L. J. (N. S.) M. C. 54; 19 Law T., N. S. 746.) As to continuous ta see the last two cases, and as to continuous act of larceny, see *Reg.* v. *Townley*, J. (N. S.) M. C. 144; 24 Law T., N. S. 517. In indictments for stealing proper count for feloniously receiving the same may be added, and *vice versâ* (sect. 92) should be observed that it is a presumption of fact, and not an implication of from evidence of recent possession of stolen property unaccounted for whethe offence of stealing, or of feloniously receiving, has been committed (*Reg.* v. *Lang* 1 Leigh & Cave, C. C. 427; 10 Law T., N. S. 350). By sect. 100, the owner of s property prosecuting the thief or receiver to conviction is to have restitutio his property. The recent cases illustrative of the law of larceny of propert finding it are, *Reg.* v. *Thurburn*, 1 Den. C. C. 388; *Reg.* v. *Christopher*, 1 C. C. 27; 28 L. J. (N. S.) M. C. 35; *Reg.* v. *Moore*, 1 Leigh & Cave, C. C 30 L. J. (N. S.) M. C. 77; *Reg.* v. *Gardner*, 32 L. J. (N. S.) M. C. 35; 1 Leig Cave, C. C. 243; *Reg.* v. *Glyde*, 37 L. J. (N. S.) M. C. 107; 18 Law T., N 613; *Reg.* v. *Knight*, 25 Law T., N. S. 508.

79 *Venue.*] For the offence of simple larceny at common law, the offender ma tried in the county where the goods, &c. are stolen, or in any county or place int through which he carried them, as there is a separate taking and carrying away in e place. In a recent case (*Reg.* v. *Rogers*, 11 Cox, C. C. 38; 18 Law T., N. S. 4 where a prisoner stole a watch in Liverpool, and sent it, with other things, by rail to a confederate in Middlesex, it was held that the prisoner was triable in Middle although there was no evidence that he had left Liverpool. But this rule does apply to a compound or aggravated larceny (see Arch. Cr. Pl. by Bruce, 16th ed. 30, 31);—and by 24 & 25 Vict. c. 96, s. 114, where any property is stolen in one p of the United Kingdom and the offender has it in possession in another part of

	Page, &c. of Formulist.	Where triable.	As to Bail.	Punishment.	If Costs of Prosecution allowed.
288	No. 276, p. 565.	Sessions (*See Note* 79 *as to venue*).	Discretionary.	Pen. serv. for 5 yrs.;—*or* impr. for not exc. 2 yrs., with *or* without h. l., s. c., and, if a male under 16, w. (24 & 25 Vict. c. 96, s. 4).	Yes.
289	No. 277. p. 565.	Id.	Id.	The same (s. 3).	Yes.

United Kingdom, he may be indicted in the latter; but in such a case the goods must have retained their original character, and the original taking must be such as would have been cognizable at common law. Under 11 & 12 Vict. c. 42, s. 22, *ante*, p. 961, the party found in another county, &c. with stolen goods may be committed for trial to the county, &c. where the offence was committed. As to the Admiralty jurisdiction, see 24 & 25 Vict. c. 96, s. 115.

80 *Larceny as a Bailee—Offence* 289—*Decisions—Definition of* "*Valuable Security.*"] Before this enactment of 24 & 25 Vict. c. 96, s. 3, bulk must have been broken, or the bailment otherwise determined by some wrongful act of the bailee, to render him criminally liable; now, if the bailee convert the whole property entrusted to him he is liable; and that in fact is the only difference between the former and present law; for the intent to deprive the owner of them permanently must exist in this case as in other cases of larceny. (*Reg.* v. *Trebilcock*, 27 L. J. (N. S.) M. C. 103; 30 Law. T. 293.) The bailment intended is a deposit of something which is itself to be returned, the *possession* only of it being parted with by the owner for some time. See *Reg.* v. *Hassall*, 30 L. J. (N. S.) M. C. 175; 4 Law T., N. S. 561; Greaves's edit. Cr. Acts, 1861, p. 73; *Reg.* v. *Jane Robson*, 31 L. J. (N. S.) M. C. 22; 5 Law T., N. S. 402; *Reg.* v. *Garrett*, 2 F. & F. 14. In *Reg.* v. *Bunkall* (1 Leigh & Cave, C. C. 371; 33 L. J. (N. S.) M. C. 75) it appears, however, to have been held, that the bailor need not have had actual possession of the property, and that a carrier purchasing goods for his principal with his money, who appropriated a portion to his own use, delivering the rest to the principal, is guilty of larceny as a bailee. (See 2 Russ. on Cr. 4th ed. p. 247; also *Reg.* v. *Davies*, 14 Law T., N. S. 491; *Reg.* v. *Weekes*, 10 Cox, C. C. 224; *Reg.* v. *Henderson*, 11 Cox, C. C. 593; 23 Law T., N. S. 628.) It is submitted, however, that these decisions will not bring within the 3rd sect. an agent or person entrusted with a bill to negotiate and get discounted, without any direction in writing as to the application of the proceeds, who accordingly gets it discounted and converts the money to his own use; such appropriation being a mere nonaccounting and not even within the second branch of the 75th sect. of this act, Offence 20, *ante*, p. 1018. A "valuable security" is defined by sect. 1 of 24 & 25 Vict. c. 96:—"The term 'valuable security' shall include any order, exchequer acquittance, or other security whatsoever entitling or evidencing the title of any person or body corporate to any share or interest in any public stock or fund, whether of the United Kingdom or of Great Britain or of Ireland, or of any foreign state, or in any fund of any body corporate, company or society, whether within the United Kingdom or in any foreign state or country, or to any deposit in any bank, and shall also include any debenture, deed, bond, bill, note, warrant, order, or other security whatsoever for money, or for payment of money, whether of the United Kingdom or of Great Britain, or of Ireland, or of any foreign state, and any document or title to lands or goods as hereinbefore defined,"

OFFENCE.	Class of Offence and Statute or Authority.
LARCENY—*continued.*	
290. *After previous Convictions.*] Whosoever shall commit the offence of simple larceny after a previous conviction for felony. [*See tit.* "Subsequent Felony."	F. 24 & 25 Vict. c. 96, s. 7.
291. Whosoever shall commit the offence of simple larceny,—*or* any offence hereby made punishable like simple larceny [*Vide Offences* 298, 301, 305 to 309],—after having been previously convicted of any indictable misdemeanor punishable under this act [*i. e.* Offences 19 to 23, 195 to 197, 201, 258 to 264, 269, 280 to 284, 295 to 297, 299, 300, 466].	F. Id. s. 8.
292. Whosoever shall commit the offence of simple larceny, *or* any offence hereby made punishable like simple larceny [*Vide Offences* 298, 301, 305 to 309], after having been twice summarily convicted of any of the offences punishable upon summary conviction, under the provisions contained in the acts 7 & 8 Geo. 4, cc. 29, 30,—*or* this act,*—*or* 24 & 25 Vict. c. 97,†—(whether each of the convictions shall have been in respect of an offence of the same description or not, and whether such convictions or either of them shall have been *or* shall be before *or* after the passing of this act). (*Note* 81.)	F. Id. s. 9. * "Larceny," Vol. I. p. 534. † "Malicious Injuries," Vol. I. p. 554.
293. *Deer.*] The like offence as Offences 1, 2, Vol. I. p. 534, committed after a previous conviction of any offence relating to deer, under this *or* any former act, whether such second offence be of the same description as the first *or* not (*Note* 81).	F. Id. s. 12.
294. Whosoever shall unlawfully and wilfully course, hunt, snare, *or* carry away,—*or* kill *or* wound, *or* attempt to kill *or* wound,—any deer kept *or* being in the inclosed part of any forest, chase, *or* purlieu, *or* in any inclosed land where deer shall be usually kept.	F. Id. s. 13.
295. *Dogs.*] Whosoever shall steal any dog, having been previously summarily convicted of any such offence, either against this *or* any former act of parliament [Offence 8, Vol. I. p. 536 *punishable summarily.*] (*Note* 81.)	M. Id. s. 18.
296. Possession of stolen dog, &c. [as Offence 9, Vol. I. p. 536], having been previously summarily convicted (*Note* 81).	M. Id. s. 19.
297. Whosoever shall corruptly take any money *or* reward, directly *or* indirectly, under pretence *or* upon account of aiding any person to recover any dog which shall have been stolen, *or* which shall be in the possession of any person not being the owner thereof.	M. Id. s. 20.

which are as follows:—"The term 'document of title to goods' shall include any bill of lading, India warrant, dock warrant, warehouse keeper's certificate, warrant or order for the delivery or transfer of any goods or valuable thing, bought and sold note,

Page, &c. of Formalist.	Where triable.	As to Bail.	Punishment.	If Costs of Prosecution allowed.
No. 278, p. 565.	Sessions.	Discretionary.	Pen. serv. 10—7 yrs.; —*or* impr. not exc. 2 yrs., with *or* without h. l., s. c., and, if a male under 16, w. (s. 7, and 27 & 28 Vict. c. 47, s. 1).	Yes.
No. 279, p. 565.	Id.	Id.	Pen. serv. 7—5 yrs.; —*or* impr. not exc. 2 yrs., with *or* without h. l., s. c., and, if a male under 16, w. (s. 8).	Yes.
No. 280, p. 565.	Id.	Id.	Pen. serv. 7—5 yrs.; —*or* impr. not exc. 2 yrs., with *or* without h. l., s. c., and, if a male under 16, w. (s. 9).	Yes.
No. 281, p. 565.	Id.	Id.	Impr. not exc. 2 years, with *or* without h. l., s. c., and, if a male under 16, w. (s. 12).	Yes.
No. 282, p. 566.	Id.	Id.	The same (s. 13).	Yes.
No. 283, p. 566.	Id.	Id.	Impr. not exc. 18 cal. m., with *or* without h. l. (s. 18).	Yes (s. 121).
No. 284, p. 566.	Id.	Id.	The same (s. 19).	Id.
No. 285, p. 566.	Id.	Id.	The same (s. 20).	Yes (s. 121).

other document used in the ordinary course of business as proof of the possession or control of goods, or authorizing or purporting to authorize, either by indorsement or by delivery, the possessor of such document to transfer or receive any goods

OFFENCE.	Class of Offence and Statute or Authority.
LARCENY—*continued.*	
298. *Oysters* (*Note* 82).] Whosoever shall steal any oysters *or* oyster brood from any oyster bed, laying *or* fishery, being the property of any other person, and sufficiently marked out *or* known as such.	F. 24 & 25 Vict. c. 96, s. 26.
299. Whosoever shall unlawfully and wilfully use any dredge, *or* any net, instrument, *or* engine whatsoever, within the limits of any oyster bed, laying, *or* fishery, being the property of any other person, and sufficiently marked out *or* known as such, for the purpose of taking oysters *or* oyster brood, although none shall be actually taken,	M. Id.
or	
300. Shall unlawfully and wilfully, with any net, instrument *or* engine, drag upon the ground *or* soil of any such fishery.	
301. *Bonds, Bills, Notes, &c.*] Whosoever shall steal,—*or* shall for any fraudulent purpose destroy, cancel *or* obliterate, —the whole *or* any part of any valuable security, other than a document of title to lands [*definition, Note* 80].	F. Id. s. 27.
302. *Deeds, &c.*] Whosoever shall steal,—*or* shall for any fraudulent purpose destroy, cancel, obliterate *or* conceal —the whole *or* any part of any document of title to lands [*definition, Note* 80].	F. Id. s. 28.
303. *Wills.*] Whosoever shall, either during the life of the testator *or* after his death, steal—*or* for any fraudulent purpose destroy, cancel, obliterate, *or* conceal, the whole *or* any part of any will, codicil, *or* other testamentary instrument, whether the same shall relate to real *or* personal estate, *or* to both.	F. Id. s. 29.

thereby represented or therein mentioned or referred to. The term 'document of title to lands' shall include any deed, map, paper or parchment, written or printed, or partly written and partly printed, being or containing evidence of the title, or any part of the title, to any real estate, or to any interest in or out of any real estate."

81 *Evidence of Former Convictions—Mode of Charging the Prisoner.*] By 24 & 25 Vict. c. 96, s. 116 (which in this respect appeared to be general and to be applicable to "*any* indictment for committing any offence after a previous conviction or convictions;" but however that may be, it is now made so by "The Prevention of Crimes Act, 1871," 34 & 35 Vict. c 112, s. 9, set out *ante*, p. 1006, *Note* 1), in an indictment for the subsequent offence it is sufficient, after charging that offence "to state that the offender was at a certain time and place or at certain times and places convicted of felony, or of an indictable misdemeanor, or of an offence or offences punishable upon summary conviction (as the case may be), without otherwise describing the previous felony, misdemeanor, offence or offences;"—and a certificate containing the substance and effect only (omitting the formal part) of the indictment and conviction for the previous felony

Page, &c. of Formalist.	Where triable.	As to Bail.	Punishment.	If Costs of Prosecution allowed.
No. 286, p. 566.	Sessions.	Discretionary.	As simple larceny (s. 26), *i. e.* Offence 288. [*See* Reg. *v.* Downing, 23 *Law T., N. S.* 398.]	Yes.
Nos. 287, 288, p. 566.	Id.	Id.	Impr. for not exc. 3 m., with *or* without h. l. and s. c. (s. 26). [MEM. *The section does not prevent persons from taking floating fish* (s. 26).]	Yes (s. 121).
No. 289, p. 566.	Id.	Id.	As a chattel of like value (s. 27), *i. e.* Offence 288.	Yes.
No. 291, p. 568.	Assizes.	Id.	Pen. serv. 5 years;—*or* impr. not exc. 2 yrs., with *or* without h. l. and s. c. (s. 28).	Yes.
Nos. 292, 293, p. 568.	Id.	Id.	Pen. serv. life—5 years;—*or* impr. not exc. 2 yrs., with *or* without h. l. and s. c. (s. 29). [*Other remedies are not to be affected.*]	Yes.

misdemeanor, or a copy of any summary conviction purporting to be signed by clerk of the court or other officer having the custody of the records of the court, to which the summary conviction is returned [pursuant to s. 112, *Note* 256, Vol. I., 137], or by his deputy (for which a fee of 5*s.* only is to be taken), is, with proof of identity of the offender, to be sufficient proof of such conviction. The mode of arraigning the prisoner is then provided as follows:—The prisoner is first arraigned for the subsequent offence only; if he pleads not guilty, the jury inquire first of that offence only; if they find him guilty, or if he plead guilty, he shall then, and not before, be asked whether he had been previously convicted as stated in the indictment; if he say it, the jury shall then be charged to inquire concerning such previous conviction, &c. If, however, he call witnesses to character, the previous conviction may be proved by the prosecutor in answer, and the jury shall then inquire into the previous conviction at the same time as they inquire concerning the subsequent offence.

[*Property in Oysters.*] The 31 & 32 Vict. c. 45, ss. 51, 52, provide for the property in oyster and mussels; and sect. 55, the mode of alleging the ownership in them when taken from contiguous fisheries.

OFFENCE.	Class of O and Statute or A
LARCENY—*continued.*	
304. *Records or Papers from Government Offices.*] Stealing, *or* taking from place of deposit, *or* from any person, *or* cancelling, obliterating, &c. any record, writ, &c., *or* any other original document belonging to any court of record, &c.,—*or* any original document relating to the business of any office under her Majesty, *or* in her Majesty's castles, palaces, *or* houses, or government *or* public office. [*A warrant of execution on each of two judgments against the prisoner in two plaints in the county court had issued against him under which a levy had been made by the high bailiff of the court, and the warrants were handed to the under-bailiff who was then left in possession of the prisoner's goods. The prisoner a day or two afterwards forcibly took the warrants out of the deputy-bailiff's hands, kept them, and then ordered him away as having no longer authority to remain there, and on his refusal to leave forcibly turned him out of the house in which the goods were. For these acts the prisoner was indicted and convicted upon an indictment framed upon the 24 & 25 Vict. c. 96, s. 39, which charged in the first count a stealing of the warrants of execution, and in the second a*	F. 24 & 25 Vi s. 30.
305. *Metal, &c., fixed to Buildings, &c.*] Whosoever shall steal, —*or* shall, rip, cut, sever, *or* break with intent to steal, —any glass *or* wood work belonging to any building whatsoever—*or* any lead, iron, copper, brass *or* other metal, *or* any utensil *or* fixture, whether made of metal *or* other material *or* of both, respectively fixed in *or* to any building whatsoever,—*or* anything made of metal fixed in any land being private property, *or* for a fence to any dwelling-house, garden *or* area, *or* in any square *or* street, *or* in any place dedicated to public use *or* ornament, *or* in any burial ground.	F. Id. s. 3
306. *Trees, Shrubs, &c.*] Whosoever shall steal,—*or* shall cut, break, root up, *or* otherwise destroy *or* damage with intent to steal,—the whole *or* any part of any tree, sapling, *or* shrub, *or* any underwood, respectively growing in any park, pleasure ground, garden, orchard, *or* avenue, *or* in any ground adjoining *or* belonging to any dwelling-house (in case the value of the article *or* articles stolen, *or* the amount of the injury done, shall exceed the sum of £1).*	F. Id. s. 3
307. Whosoever shall steal,—*or* shall cut, break, root up, *or* otherwise destroy *or* damage with intent to steal,—the whole *or* any part of any tree, sapling, *or* shrub, *or* any underwood, respectively growing elsewhere than in any of the situations in this section before mentioned (in case the value of the article *or* articles stolen, *or* the amount of the injury done, shall exceed the sum of £5).†	F. Id.
308. The like, wheresoever growing, to value *or* amount of 1*s.* at the least after two previous summary convictions (*Note* 81). [*See Offences* 18, 19, *Vol. I. p.* 540, *punishable summarily.*]	F. Id. s. 33.

	Page, &c. of Formulist.	Where triable.	As to Bail.	Punishment.	If Costs of Prosecution allowed.
	Nos. 294, 295, p. 568.	Assizes.	Discretionary.	The same as Offence 303 (s. 30). [*See* Reg. v. Bailey, 41 *L. J.* (*N. S.*) *M. C.* 61.] *[*taking of the same from a person having the legal custody of them, for a fraudulent purpose; and it was held, that the facts did not afford any evidence of a larceny of the documents, but did disclose a fraudulent purpose within the meaning of the statute, and that the conviction could be supported on the second count*, Reg. *v.* Bailey, 41 *L. J.*, *M. C.* 61.]	Yes.
5	No. 296, p. 568.	Sessions.	Id.	As simple larceny (s. 31), *i. e.* Offence 288. [MEM. *In the case of things fixed in any square, street or place, it is not necessary to allege the things to be the property of any person* (s. 31).]	Yes.
6	No. 297, p. 569.	Id.	Id.	As simple larceny (s. 32), *i. e.* Offence 288. *[*Committed at one time.* Reg. *v.* Shepherd, 37 *L. J.* (*N. S.*) *M. C.* 45; 17 *Law T.*, *N. S.* 482.]	Yes.
7	No. 298, p. 569.	Id.	Id.	As simple larceny (s. 32), *i. e.* Offence 288. †[*Committed at one time.* Reg. *v.* Shepherd, *supra.*]	Yes.
8	No. 299, p. 569.	Id.	Id.	As simple larceny (s. 33), *i. e.* Offence 288.	Yes.

OFFENCE.	Class of Offe and Statute or Auth
LARCENY—*continued.*	
309. The like offences in respect to plants, fruits, &c. in gardens, &c. as Offences 23, 24, Vol. I. p. 540, after one previous summary conviction (*Note* 81).	F. 24 & 25 Vict. s. 36.
310. *From Mines.*] Whosoever shall steal,—*or* sever with intent to steal,—the ore of any metal, *or* any lapis, calaminaris, manganese *or* mundick, *or* any wad, black cawke, *or* black lead,—*or* any coal *or* cannel coal, from any mine, bed, *or* vein thereof respectively.	F. Id. s. 3
311. Whosoever, being employed in or about any mine, shall take, remove, *or* conceal any ore of any metal, *or* any lapis, calaminaris, manganese, mundick, *or* other mineral found *or* being in such mine, with intent to defraud any proprietor of *or* any adventurer in such mine, *or* any workman *or* miner employed therein.	F. Id. s. 39
312. *Robbery and Larceny from the Person.*] Whosoever shall rob any person,—*or* shall steal any chattel, money, *or* valuable security from the person of another (*Note* 83). [*Assaulting with intent to rob, see Offence* 61, *tit.* "Assaults."]	F. Id. s. 40.
313. Whosoever shall, being armed with any offensive weapon *or* instrument, rob,—*or* assault with intent to rob,—any person,	F. Id. s. 43.
or	
314. Shall, together with one *or* more other person *or* persons, rob,—*or* assault with intent to rob,—any person,	
or	
315. Shall rob any person, and at the time of *or* immediately before *or* immediately after such robbery shall wound, beat, strike, *or* use any other personal violence to any person.	
316. *By Menaces and Threats.*] Whosoever shall with menaces *or* by force demand any property, chattel, money, valuable security, *or* other valuable thing of any person, with intent to steal the same (*Note* 84). [*Inducing person by violence or threats to execute deeds, &c., see Offence* 15, *and Offence* 241.]	F. Id. s. 45.
317. *In Houses.*] Whosoever shall steal in any dwelling-house —[*or* a building within the curtilage, s. 53, in *Note* 27, *ante*, p. 1047],—any chattel, money, *or* valuable security, to the value in the whole of five pounds or more.	F. Id. s. 60.
318. Whosoever shall steal any chattel, money, *or* valuable security in any dwelling-house—[*or* building within the curtilage, s. 53, *Note* 27, *ante*, p. 1047],—and shall by any menace *or* threat put any one being therein in bodily fear.	F. Id. s. 61.

83 *Verdict of Assault may be returned on Indictment for Robbery—Offences* 312—31 By 24 & 25 Vict. c. 96, s. 41, if the jury do not find the prisoner guilty of robbery, b that he did commit an assault with intent to rob, they may find him guilty of the latt and thereupon he is liable to be punished as if he had been convicted of felonious assaulting with intent to rob (Offence 61, *ante*, p. 1030). See *Reg.* v. *Mitchell*, 21 L. (N. S.) M. C. 135; 2 Den. C. C. 468.

Page, &c. of Paraphrase.	Where triable.	As to Bail.	Punishment.	If Costs of Prosecution allowed.
9 No. 300, p. 569.	Sessions.	Discretionary.	As simple larceny (s. 36), *i. e.* Offence 288.	Yes.
0 No. 301, p. 569.	Id.	Id.	Imprisonment not exceeding 2 years, with *or* without hard labour and solitary confinement (s. 38).	Yes.
1 No. 302, p. 569.	Id.	Id.	The same (s. 39).	Yes.
2 Nos. 303, 304, p. 570.	Id.	Id.	Pen. serv. 14—5 years; —*or* impr. not exc. 2 years, with *or* without h. l. and s. c. (s. 40).	Yes.
3 Nos. 305, 309, p. 570.	Assizes.	Id.	Penal servitude life—5 years;—*or* imprisonment not exceeding 2 years, with *or* without hard labour and solitary confinement (s. 43), and whipping (26 & 27 Vict. c. 44, *ante*, p. 1008).	Yes.
4 No. 310, p. 570.	Sessions.	Id.	Penal servitude 5 years; —*or* imprisonment not exceeding 2 years, with *or* without hard labour and solitary confinement (s. 45).	Yes.
7 No. 311, p. 571.	Id.	Id.	Pen. serv. 14—5 yrs.; —*or* impr. not exc. 2 yrs., with or without h. l. and s. c. (s. 60).	Yes.
8 No. 312, p. 571.	Id.	Id.	The same (s. 61).	Yes.

[14] *What Menaces—Offence* 316.] By 24 & 25 Vict. c. 96, s. 49, "it shall be immaterial whether the menaces or threats hereinbefore mentioned be of violence, injury or accusation, to be caused or made by the offender or by any other person." The menaces must be of such a nature as to unsettle the mind of the person on whom they operate, and take away from his acts the element of free voluntary action (*Reg.* v. *Walton*, 32 L. J. M. C. 79; 1 Leigh & Cave, C. C. 288); see also *Reg.* v. *Robertson* (which was a

OFFENCE.	Class of Offence and Statute or Authority.
LARCENY—*continued.*	
319. *In Manufactories.*] Whosoever shall steal, to the value of ten shillings, any woollen, linen, hempen, *or* cotton yarn, *or* any goods *or* article of silk, woollen, linen, cotton, alpaca, *or* mohair, *or* of any one *or* more of those materials mixed with each other, *or* mixed with any other material, whilst laid, placed, *or* exposed, during any stage, process, *or* progress of manufacture, in any building, field, *or* other place.	F. 24 & 25 Vict. c. 96, s. 62.
320. *In Ships, Wharfs, &c.*] Whosoever shall steal any goods *or* merchandise in any vessel, barge *or* boat of any description whatsoever in any haven,—*or* in any port of entry *or* discharge,—*or* upon any navigable river *or* canal,—*or* in any creek *or* basin belonging to *or* communicating with any such haven, port, river, *or* canal,—*or* shall steal any goods *or* merchandise from any dock, wharf, *or* quay adjacent to any such haven, port, river, canal, creek, *or* basin.	F. Id. s. 63.
321. Whosoever shall plunder *or* steal any part of any ship, *or* vessel which shall be in distress, *or* wrecked, stranded, *or* cast on shore, *or* any goods, merchandise, *or* articles of any kind belonging to such ship *or* vessel.	F. Id. s. 64.
322. *By Clerks or Servants.*] Whosoever, being a clerk *or* servant, *or* being employed for the purpose *or* in the capacity of a clerk *or* servant,—shall steal any chattel, money, *or* valuable security belonging to, *or* in the possession *or* power of his master *or* employer (*Note* 86).	F. Id. s. 67.
323. *By Tenants or Lodgers.*] Whosoever shall steal any chattel *or* fixture let to be used by him *or* her in *or* with any house *or* lodging, whether the contract shall have been entered into by him *or* her, *or* by her husband, *or* by any person on behalf of him *or* her, *or* her husband [value not exceeding £5].	F. Id. s. 74.
324. In case the value of such chattel *or* fixture [as mentioned in *Offence* 323, *supra*] shall exceed the sum of £5.	Id.

threat by a police constable to take the prosecutor to prison unless he paid a stated sum for some alleged offence), 34 L. J. (N. S.) M. C. 35; 1 Leigh & Cave, C. C. 483.

85 *Venue for Offence* 321.] By 24 & 25 Vict. c. 96, s. 60, "the offender may be indicted and tried, either in the county or place in which the offence shall have been committed, *or* in any county or place next adjoining."

86 *Offence* 322—*Servants within the Act—When a Servant or Agent not a Partner—Verdict of Embezzlement on Indictment for Larceny—Summary Conviction for Larceny.*] As to who are servants amenable to this enactment regarding larceny, see the cases of *Reg.* v. *Walker*, *Reg.* v. *May*, *Reg.* v. *Tite*, *Reg.* v. *Bowers*, and the provisions of the Partnership Act, 28 & 29 Vict, c. 86, as to remuneration of servants or agents, &c., referred to in *Note* 49, *ante*, p. 1070. As to the indictment and proof, by 24 & 25 Vict. c. 96, s. 72, "if upon the trial of any person indicted for embezzlement or fraudulent application or disposition as aforesaid [*referred to in sects.* 69, 70, *as to Persons in the Public Service*, tit. "*Public Service*," *post*], it shall be proved that he took the property in question in any such manner as to amount in law to larceny, he shall not by reason

Page, &c. of Pamphlet.	Where triable.	As to Bail.	Punishment.	If Costs of Prosecution allowed.
No. 313, p. 571.	Sessions.	Discretionary.	Pen. serv. 14—5 yrs.;—*or* impr. not exc. 2 yrs., with *or* without h. l. and s. c. (s. 62).	Yes.
No. 313a, p. 571.	Id.	Id.	The same (s. 63).	Yes.
No. 314, p. 571.	Id. (*Note* 85).	Id.	The same (s. 64).	Yes.
Nos. 315, 316, p. 572.	Id.	Id.	Pen. serv. 14—5 yrs.;—*or* impr. not exc. 2 yrs., with *or* without h. l. and s. c., and, if a male under 16, w. (s. 67).	Yes.
No. 317, p. 572.	Id.	Id.	Impr. not exc. 2 years, with *or* without h. l. s. c., and, if a male under 16, whipping (s. 74).	Yes.
Id.	Id.	Id.	Pen. serv. 7—5 yrs.;—*or* impr. not exc. 2 yrs., h. l., s. c. and w. (s. 74).	Yes.

reof be entitled to be acquitted, but the jury shall be at liberty to return as their erdict that such person is not guilty of embezzlement or fraudulent application or sposition; but is guilty of simple larceny, or of larceny as a clerk, servant or person ployed for the purpose, or in the capacity of a clerk or servant, or as a person ployed in the public service, or in the police, as the case may be; and thereupon such rson shall be liable to be punished in the same manner as if he had been convicted pon an indictment for such larceny;—and if upon the trial of any person indicted for rceny it shall be proved that he took the property in question in any such manner as amount in law to embezzlement, or fraudulent application or disposition as aforesaid, shall not by reason thereof be entitled to be acquitted, but the jury shall be at liberty return as their verdict that such person is not guilty of larceny, but is guilty of embezzlement, or fraudulent application or disposition as the case may be, and thereupon such person shall be liable to be punished in the same manner as if he had been convicted upon an indictment for such embezzlement, fraudulent application or disposition; —and no person so tried for embezzlement, fraudulent application or disposition, or

OFFENCE.	Class of Of and Statute or Au
LARCENY—*continued.*	
325. *By Members of Co-partnership or joint Owners.*] If any person, being a member of any copartnership, *or* being one of two *or* more beneficial owners of any money, goods, *or* effects, bills, notes, securities, *or* other property, shall steal *or* embezzle any such money, goods, *or* effects, bills, notes, securities, *or* other property of *or* belonging to any such copartnership *or* to such joint beneficial owners. [MEM. *A receiver of property stolen by a partner is not liable under* 24 & 25 *Vict. c.* 96, *s.* 91; Reg. *v.* Smith, 39 *L. J.* (*N. S.*) *M. C.* 112; 22 *Law T.*, *N. S.* 554.] [*Abettors in Misdemeanors, see tit.* "Abettors." [*Principals in the Second Degree, and Accessories before the fact, to Felonies, see tit.* "Principals in the Second Degree."] [*Accessories after the fact, see tit.* "Accessories," *Offence* 11.]	F. 31 & 32 Vic s. 1.
LETTER (THREATENING). (*Note* 87.)	
326. *To Kill.*] Whosoever shall maliciously send, deliver, *or* utter, *or* directly *or* indirectly cause to be received, knowing the contents thereof, any letter *or* writing threatening to kill *or* murder any person.	F. 24 & 25 Vict. s. 16.
327. *To Burn, &c.*] Whosoever shall send, deliver, *or* utter, *or* directly *or* indirectly cause to be received, knowing the contents thereof, any letter *or* writing, threatening to burn *or* destroy any house, barn *or* other building, *or* any rick *or* stack of grain, hay, *or* straw, *or* other agricultural produce, *or* any grain, hay, *or* straw, *or* other agricultural produce in *or* under any building, *or* any ship *or* vessel, *or* to kill, maim, *or* wound any cattle.	F. 24 & 25 Vict. s. 50.
328. *Demanding Money.*] Whosoever shall send, deliver, *or* utter, *or* directly *or* indirectly cause to be received, knowing the contents thereof, any letter *or* writing demanding of any person with menaces, and without any reasonable *or* probable cause, any property, chattel, money, valuable security, *or* other valuable thing.	F. 24 & 25 Vict. s. 44.
329. Whosoever shall send, deliver, *or* utter, *or* directly *or* indirectly cause to be received, knowing the contents thereof, any letter *or* writing accusing *or* threatening to accuse any other person of any crime punishable by law with death *or* penal servitude for not less than seven years,—*or* of any assault with intent to commit any rape,—*or* of any attempt *or* endeavour to commit any rape,—*or* of any infamous crime as hereinafter defined,* —with a view or intent in any of such cases to extort *or* gain by means of such letter *or* writing any property, chattel, money, valuable security, *or* other valuable thing, from any person. [*See tit.* "Accusing of Crime," *where threats not by letter.*]	F. Id. s. 46. * See opposite pag

larceny as aforesaid, shall be liable to be afterwards prosecuted for larceny, fraudu application or disposition, or embezzlement, upon the same facts." [But a gen

Page, &c. of Formalist.	Where triable.	As to Bail.	Punishment.	If Costs of Prosecution allowed.
..	Sessions.	Discretionary.	Liable to be dealt with, tried, convicted and punished as if he had not been *or* was not a member *or* owner—*i. e.* the same as simple larceny, Offence 288. [*For other punishments for offences under* 24 & 25 *Vict. c.* 96, *see titles,* "Agents," "Cattle," "Fish," "Fraudulent Trustees," "Public Service," *&c., &c.*]	Yes.
No. 320, p. 573.	Sessions (*Note* 89).	Discretionary.	Pen. serv. 10—5 yrs.; —*or* impr. not exc. 2 yrs., with *or* without h. l., s. c., and, if a male under 16, w. (s. 16).	Yes.
No. 321, p. 573.	Id.	Id.	The same (s. 50).	Yes.
No. 322, p. 573.	Assizes.	Id.	Pen. serv. life—5 yrs.; —*or* impr. not exc. 2 yrs., with *or* without h. l., s. c., and, if a male under 16, w. (s. 44).	Yes.
No. 323, p. 573.	Id.	Id.	Same as Offence 328, *supra* (s. 46). *[*The s. 46 defines the term "infamous crime" to be the abominable crime of buggery, committed either with mankind or beast, and every assault with intent to commit it, and every attempt or endeavour to commit it, and every solicitation, persuasion, promise or threat offered or made to any person whereby to move or induce such person to commit or permit the said abominable crime.*]	Yes.

[Act of guilty cannot be sustained upon evidence of embezzlement only (*Reg.* v. Hall, 1 Dears. & B. C. C. 166; 26 L. J. (N. S.) M. C. 47).]

OFFENCE.	Class of Offence and Statute or Authority.
LIBELS. (*Note* 88.)	
330. Against the person and Government of the Queen.	M. Common Law.
331. Against either house of parliament,—against the constitution,—*or* against the administration of justice.	M. Common Law.
332. Publishing—*or* threatening to publish—any libel upon any person,—*or* threatening to print and publish *or* proposing to abstain from *or* prevent the publishing of any matter *or* thing touching any other person, with a view to extort money, &c.	M. 6 & 7 Vict. c. 96, s. 3.
333. Maliciously publishing any defamatory libel, knowing the same to be false.	Id. s. 4.
334. Maliciously publishing any defamatory libel.	Id. s. 5.
LODGERS' GOODS PROTECTION.	
335. Lodger making *or* subscribing a declaration and inventory, knowing the same *or* either of them to be untrue in any material particular.	M. 34 & 35 Vict. c. 79, s. 1.
LOTTERIES.	
336. Setting up mischievous and unlawful games, called lotteries, or little goes. [*See Reg.* v. *Crawshaw*, 30 L. J. (N. S.) M. C. 58; 3 Law T., N. S. 510.]	M. 10 & 11 Will. 3, c. 17, s. 1; 42 Geo. 3, c. 119, s. 1.
LUNATICS.	
337. *As to County or Borough Asylums.*] Receiving a pauper into asylum without the order and medical certificate required.	M. 16 & 17 Vict. c. 97, s. 73.
338. The like, a person not a pauper. [MEM. *Two medical certificates are required.*]	M. Id. s. 74.
339. Clerk of asylum wilfully making untrue entry of death, discharge *or* removal of a patient.	Id. s. 93.
340. Any physician, surgeon, *or* apothecary falsely stating *or* certifying anything in any certificate,—*or* any person signing a certificate as a physician, &c., when not so.	Id. s. 122.
341. Any superintendent, officer, nurse, attendant, servant, *or* other person striking, wounding, illtreating *or* wilfully neglecting any lunatic.	Id. s. 123.

87 "LETTER (THREATENING):" *Apprehension of Offenders without Warrant.*] Under 24 & 25 Vict. c. 97, see *Note* 90, *post*, p. 1125; under 24 & 25 Vict. c. 96, see *Note* 78, *ante*, p. 1047. There is no express authority given in the 24 & 25 Vict. c. 100, to apprehend offenders, except in sect. 66, of persons loitering at night and suspected of any felony against the act.

88 "LIBELS:" *Witnesses for Accused justifying Libel.*] It was held before the passing of "The Criminal Law Amendment Act, 1867," 30 & 31 Vict. c. 35, s. 3 (which allows

&c. of	Where triable.	As to Bail.	Punishment.
324, 573.	Assizes.	Compulsory.	Fine *or* imprisonmen *or* both.
325, 574.	Id.	Id.	The same.
326, 574.	Id. (*Note* 89).	Id.	Impr. and h. l. for n exc. 3 yrs. [*See* Ex parte Wasc 38 *L. J.* (*N. S.*) *Q.* 302; *S. C.* Wason Walter, 17 *Law* *N. S.* 386.]
327, 574.	Id.	Id.	Impr. not exc. 2 yea and such fine as cou may award.
328, 574.	Id.	Id.	Fine, *or* impr, *or* bot but impr. not to e ceed 1 year.
--	Sessions.	Compulsory.	Fine, *or* imp., *or* bot [*See further, Chap.* *of Part III.*]
No. 329, P. 574.	Sessions.	Compulsory.	To be deemed comm and public nuisanc
--	Sessions.	Compulsory.	Fine, *or* impr., *or* bo [Common Law].
--	Id.	Id.	The same.
--	Id.	Id.	The same.
--	Id.	Id.	The same.
No. 330, P. 575.	Id.	Id.	The same;—[*or* puni able summarily; Offence 8, Vol. 1. 466.]

es to be called by a person charged with any indictable offence, o right to inquire into the truth of a charge of libel preferred befo y other justification; and if publication is proved, they are bou v. *Tennend*, 10 Cox, C. C. 356, per Smith, J.). On the hearing be of an information under sect. 5 of Lord Campbell's Act (6 & 7 V publishing a defamatory libel, the magistrate has no jurisdic o, whether on cross-examination of the complainant's witnesses, o

OFFENCE.	Class of Offence and Statute or Authority.
LUNATICS—*continued.*	
342. *As to Private Asylums.*] The following sections of the acts contain a variety of other offences by officers of asylums for which the commissioners *or* visitors *or* attorney *or* solicitor-general must prosecute, viz., 8 & 9 Victt. c. 100, ss. 23, 27, 29, 44, 49, 50, 52, 54, 59, 63, 64, 68, 90; (*Reg.* v. *Shaw*, 37 L. J. (N. S.) M. C. 112, as to definition of "Lunatic") and 16 & 17 Vict. c. 96, ss. 4, 5, 7, 9, 13, 14, 18. [*The* 16 *&* 17 *Vict. c.* 96, *s.* 9, *applies to a brother ill-treating his lunatic brother of whom he has charge, without licence*, Reg. *v.* Porter, 1 *Leigh & Cave, C. C.* 394; 10 *Law T., N.S.* 306.]	..
343. *Criminal Lunatics.*] Any person rescuing any person ordered to be conveyed to any asylum for criminal lunatics during his conveyance thereto,—*or* any officer *or* servant in asylum, through wilful neglect *or* connivance, permitting any person confined therein to escape,—*or* secreting, *or* abetting, *or* conniving at the escape of such person.	F. 23 & 24 Vict. c. 75, s. 12.
344. Any superintendent, officer, nurse, attendant, servant, *or* other person employed in such asylum, striking, wounding, illtreating, *or* wilfully neglecting any person confined therein.	M. Id. s. 13.
MACHINERY. *See Offences* 347, 348, *tit.* "Malicious Injuries."	
MAGISTRATES. [*Assaulting, see Offence* 52, *tit.* "Assaults."] [*Attempting to corrupt a magistrate is a M. at Com. Law;* Reg. *v.* Gurney, 10 *Cox, C. C.* 550 (*Common Serjeant*).]	
MAINTENANCE.	
345. Of suits or quarrels of others. [*See* 5 *Burn's Jus.* 29*th ed. pp.* 2—5; 1 *Hawk. c.* 83, *ss.* 1, 2.]	M. Common Law.
MALICIOUS INJURIES (*Notes* 90, 91).	
346. *To Buildings &c. by Tenants.*] Whosoever, being possessed of any dwelling-house *or* other building, *or* part of any dwelling-house *or* other building, held for any term of years *or* other less term, *or* at will, *or* held over after the termination of any tenancy, shall unlawfully and maliciously pull down *or* demolish,—*or* begin to pull down *or* demolish,—the same *or* any part thereof,—*or* shall unlawfully and maliciously pull down *or* sever from the freehold any fixture being fixed in *or* to such dwelling-house *or* building, *or* part of such dwelling-house *or* building.	M. 24 & 25 Vict. c. 97, s. 13.

testimony of witnesses called by the accused to prove the truth of the libellous matter charged, on the ground that the truth is not in issue before him, and cannot at that stage constitute any defence. *Reg* v. *Carden*, 49 L. J., M. C. 1; 44 J. P. 119, 137.

89 *Venue.*] The offender may be tried either in the county, &c. from which the letter or writing was sent or posted (1 Campb. 215; *R.* v. *Williams*, 2 Campb. 506),—or in the county, &c. in which it was received (*R.* v. *Girdwood*, 2 East, P. C. 1120).

Sec. &c. of Schedule.	Where triable.	As to Bail.	Punishment.	If Costs of Prosecution allowed.
No. 331, p. 575.				
No. 332, p. 575.	Sessions.	Discretionary.	Pen. serv. not exc. 5 yrs.; —*or* impr. for not exc. 2 yrs., with *or* without h. l. [*See also* 30 *Vict. c.* 12, *ss.* 5, 6.]	Yes.
No. 333, p. 575.	Id.	Compulsory.	Fine *or* impr. with *or* without h. l.;—*or* fine and impr. [*or* punishable summarily].	No.
No. 334, p. 575.	Sessions.	Compulsory.	Fine *or* impr., *or* both; —*or*, by 33 Edw. 1, st. 3, impr. for 3 yrs., and fine at the king's pleasure.	No.
No. 335, p. 576.	Sessions.	Discretionary.	Fine, *or* impr., *or* both, at the discretion of the court [Common Law]. [*By s.* 59, *the provision of the act as to other offences are to apply to persons in possession of the property injured. See Note* 267, *Vol. I. p.* 554.]	Yes (s. 77).

"MALICIOUS INJURIES:" *Apprehension of Offenders without Warrant — Search Warrant.*] The apprehension of persons *found committing* any offence against this is authorized by 24 & 25 Vict. c. 97, s. 61, *Note* 250, Vol. I. p. 534, which By sect. 57, "any constable or peace officer may take into custody, without any person whom he shall find lying or loitering in any highway, or other place during the night [*not defined*, but see *Note* 27, *ante*, p. 1047], whom he shall have good cause to suspect of having committed or being

OFFENCE.	Class o s Statute o
MALICIOUS INJURIES—*continued.*	
347. *To Manufacturers, Machinery, &c.*] Whosoever shall unlawfully and maliciously cut, break, *or* destroy, *or* damage with intent to destroy *or* to render useless, any goods *or* article of silk, woollen, linen, cotton, hair, mohair *or* alpaca, *or* of any one *or* more of those materials mixed with each other *or* mixed with any other material, *or* any framework-knitted piece, stocking, hose, *or* lace, being in the loom or frame, *or* any machine *or* engine, *or* on the rack *or* tenters, *or* in any stage, process, *or* progress of manufacture,—*or* shall unlawfully and maliciously cut, break, *or* destroy, *or* damage with intent to destroy, *or* to render useless any warp, *or* shute of silk, woollen [*&c. as before*], *or* shall unlawfully and maliciously cut, break, *or* destroy, *or* damage with intent to destroy *or* render useless, any loom, frame, machine, engine, rack, tackle, tool, *or* implement, whether fixed or moveable, prepared for *or* employed in carding, spinning, throwing, weaving, fulling, shearing, *or* otherwise manufacturing *or* preparing any such goods *or* articles,—*or* shall by force enter into any house, shop, building, *or* place, with intent to commit any of the offences in this section mentioned.	F. 24 & 25 s.
348. Whosoever shall unlawfully and maliciously cut, break, *or* destroy, *or* damage with intent to destroy *or* to render useless, any machine *or* engine, whether fixed *or* moveable, used *or* intended to be used for sowing, reaping, mowing, thrashing, ploughing, *or* draining, *or* for performing any other agricultural operation,—*or* any machine *or* engine, *or* any tool *or* implement, whether fixed or moveable, prepared for *or* employed in any manufacture whatsoever (except the manufacture of silk, &c., *provided by Offence* 347).	F. Id.
349. *Hopbinds.*] Whosoever shall unlawfully and maliciously cut *or* otherwise destroy any hopbinds growing on poles in any plantation of hops.	F. Id. s
350. *Trees, Shrubs, &c.*] Whosoever shall unlawfully and maliciously cut, break, bark, root up *or* otherwise destroy *or* damage the whole *or* any part of any tree, sapling *or* shrub, *or* any underwood, growing in any park, pleasure ground, garden, orchard *or* avenue, *or* in any ground adjoining *or* belonging to any dwelling-house (in case the amount of the injury done shall exceed the sum of £10).*	F. Id. s.
351. Whosoever shall unlawfully and maliciously cut, break, bark, root up, *or* otherwise destroy *or* damage the whole *or* any part of any tree, sapling *or* shrub, *or* any underwood, growing elsewhere than in any park, pleasure ground, garden, orchard *or* avenue, *or* in any ground adjoining to *or* belonging to any dwelling-house (in case the amount of injury done shall exceed the sum of £5).†	F. Id. s.

about to commit any felony against this act,—and shall take such person as reasonably may be before a justice of the peace, to be dealt with according law." See *Note* 74, *ante*, p. 1103, for the provision of sect. 55 as to Search for Gunpowder, &c.

91 *Malice against Owner—Provisions of Act to apply to Offences by Tenants*

Page, &c. of Formulist.	Where triable.	As to Bail.	Punishment.	If Costs of Prosecution allowed.
Nos. 336, 337, p. 576.	Assizes.	Discretionary.	Pen. serv. for life, — 5 yrs.; —*or* impr. not exc. 2 yrs., with *or* without h. l., s. c., and, if a male under the age of 16, w. (s. 14). [*See* Reg. *v.* Fisher, 35 *L. J.* (*N. S.*) *M. C.* 57; 13 *Law T., N. S.* 380, *which decided that a temporary stoppage to machinery is "damage."*]	Yes.
No. 338, p. 576.	Sessions.	Id.	Pen. serv. 7—5 yrs.; —*or* impr. not exc. 2 yrs., with *or* without h. l., s. c., and, if a male under 16, w. (s. 15).	Yes.
No. 339, p. 576.	Id.	Id.	Pen. serv. 14—5 yrs.; —*or* impr. not exc. 2 yrs., h.l., s.c., and, if a male under 16, w. (s. 19).	Yes.
No. 340, p. 577.	Id.	Id.	Pen. serv. 5 yrs.; —*or* impr. not exc. 2 yrs., with *or* without h. l., s. c., and, if a male under 16, w. (s. 20). *[*See case under Offence* 351.]	Yes.
No. 341, p. 577.	Id.	Id.	The same punishment (s. 21). †[*Committed at one time* Reg. *v.* Shepherd, 37 *L.J.* (*N. S.*) *M. C.* 45; 17 *Law T., N. S.* 482.	Yes.

s.] As to malice and offences by tenants see 24 & 25 Vict. c. 97, ss. 58, 59; 287, Vol. I. p. 554. By sect. 60, "it shall be sufficient in any indictment any offence against this act, where it shall be necessary to allege an intent to or defraud, to allege that the party accused did the act with intent to injure defraud (as the case may be), without alleging an intent to injure or defraud

OFFENCE.	Class of O and Statute or A
MALICIOUS INJURIES—*continued.*	
352. The like, wheresoever growing, the injury being 1*s.* at the least,—after two previous summary convictions *Note* 81, *and sect.* 70 *as to evidence of such a conviction*]. [*See Offences* 1, 2, *Vol. I. p.* 554, *punishable summarily.*]	M. 24 & 25 V s. 22.
353. The like offences in respect to plants, fruits, &c. in gardens, &c., as Offences 3, 4, Vol. I., p. 554,—after one previous summary conviction [*Note* 81, *and sect.* 70 *as to evidence of such a conviction*].	F. Id. s.
354. *To Mines.*] Whosoever shall unlawfully and maliciously cause any water to be conveyed *or* run into any mine, *or* into any subterraneous passage communicating therewith, with intent thereby to destroy *or* damage such mine, *or* to hinder *or* delay the working thereof,—*or* shall with the like intent unlawfully and maliciously pull down, fill up, *or* obstruct, *or* damage with intent to destroy, obstruct, *or* render useless, any airway, waterway, drain, pit, level, *or* shaft of *or* belonging to any mine. [*See also Offences* 38, 39, *tit.* "Arson."]	F. Id. s.
355. Whosoever shall unlawfully and maliciously pull down *or* destroy,—*or* damage with intent to destroy *or* render useless,—any steam-engine *or* other engine for sinking, draining, ventilating, *or* working, *or* for in anywise assisting in sinking, draining, ventilating *or* working any mine,—*or* any appliance *or* apparatus in connection with any such steam *or* other engine,—*or* any staith, building, *or* erection used in conducting the business of any mine,—*or* any bridge, waggonway, *or* trunk for conveying minerals from any mine—whether such engine, staith, building, erection, bridge, waggonway, *or* trunk be completed *or* in an unfinished state,—*or* shall unlawfully and maliciously stop, obstruct, *or* hinder the working of any such steam *or* other engine, *or* of any such appliance *or* apparatus as aforesaid, with intent thereby to destroy *or* damage any mine, *or* to hinder, obstruct, *or* delay the working thereof,—*or* shall unlawfully and maliciously wholly *or* partially cut through, sever, break, *or* unfasten, *or* damage with intent to destroy *or* render useless, any rope, chain, *or* tackle, of whatsoever material the same shall be made, used in any mine, *or* in *or* upon any inclined plane, railway, *or* other way, *or* other work whatsoever, in anywise belonging *or* appertaining to *or* connected with *or* employed in any mine, *or* the working *or* business thereof.	F. Id. s. 2
356. *To Sea and River Banks, &c.*] Whosoever shall unlawfully and maliciously break down, *or* cut down *or* otherwise damage *or* destroy any sea bank *or* sea wall,—*or* the bank, dam, *or* wall of *or* belonging to any river, canal, drain, reservoir, pool *or* marsh,—whereby any land *or* building shall be *or* shall be in danger of being	F. Id. s. 30.

any particular person;—and on the trial of any such offence it shall not be nece to prove an intent to injure or defraud any particular person, but it shall be suffi

...ge, &c. of ...mulist.	Where triable.	As to Bail.	Punishment.	If Costs of Prosecution allowed.
...p. 342, ... 577.	Sessions.	Discretionary.	Impr. for not exc. 2 yrs., with *or* without h. l., s. c., and, if a male under 16, w. (s. 22).	Yes (s. 77).
...o. 343, ... 577.	Id.	Id.	Pen. serv. 5 yrs.;—*or* impr. not exc. 2 yrs., h. l., s. c., and, if a male under 16, w. (s. 23).	Yes.
... Nos. ...4, 345, ...p. 577.	Id.	Id.	Pen. serv. 7—5 yrs.;—*or* impr. not exc. 2 yrs., h. l., s. c., and, if a male under 16, w. (s. 28). [MEM. *This is not to extend to damage done underground by owner of adjoining mine* (s. 28).]	Yes.
Nos. 345—350, pp. 577—588.	Id.	Id.	Pen. serv. for not exc. 7 yrs. and not less than 5 yrs.;—*or* impr. for not exc. 2 yrs., with *or* without h. l., s. c., and, if a male under 16, w. (s. 29).	Yes.
Nos. 351, 352, p. 578.	Assizes.	Id.	Pen. serv. for life—5 yrs.;—*or* impr. for not exc. 2 yrs., with *or* without h. l., s. c., and, if a male under 16, w. (s. 30).	Yes.

...ove that the party accused did the act charged with an intent to injure or defraud ...he case may be).

OFFENCE.	Class of a Statute or
MALICIOUS INJURIES—*continued.*	
overflowed *or* damaged,—*or* shall unlawfully and maliciously throw, break, *or* cut down, level, undermine, *or* otherwise destroy, any quay, wharf, jetty, lock, sluice, floodgate, weir, tunnel, towing-path, drain, water-course, *or* other work belonging to any port, harbour, dock, *or* reservoir, *or* on *or* belonging to any navigable river *or* canal.	F. 24 & 25 s. 3
357. Whosoever shall unlawfully and maliciously cut off, draw up, *or* remove any piles, chalk, *or* other materials fixed in the ground, and used for securing any sea bank *or* sea wall, *or* the bank, dam, or wall of any river, canal, drain, acqueduct, marsh, reservoir, pool, port, harbour, dock, quay, wharf, jetty *or* lock,—*or* shall unlawfully and maliciously open *or* draw up any floodgate *or* sluice, *or* do any other injury *or* mischief to any navigable river *or* canal, with intent and so as thereby to obstruct *or* prevent the carrying on, completing, *or* maintaining the navigation thereof.	F. Id.
358. *To Ponds.*] Whosoever shall unlawfully and maliciously cut through, break down, *or* otherwise destroy the dam, floodgate, *or* sluice of any fish-pond, *or* of any water which shall be private property, *or* in which there shall be any private right of fishery, with intent thereby to take *or* destroy any of the fish in such pond *or* water, *or* so as thereby to cause the loss *or* destruction of any of the fish,—*or* shall unlawfully and maliciously put any lime *or* other noxious material in any such pond *or* water, with intent thereby to destroy any of the fish that may then be *or* that may thereafter be put therein, —*or* shall unlawfully and maliciously cut through, break down, *or* otherwise destroy the dam *or* floodgate of any mill pond, reservoir, *or* pool.	M. Id. s.
359. *To Bridges, Viaducts, and Toll Bars.*] Whosoever shall unlawfully and maliciously pull *or* throw down *or* in anywise destroy any bridge (whether over any stream of water *or* not),—*or* any viaduct *or* aqueduct, over or under which bridge, viaduct *or* aqueduct any highway, railway *or* canal shall pass, *or* do any injury with intent and so as thereby to render such bridge, viaduct, *or* aqueduct, *or* the highway, railway, *or* canal passing over *or* under the same, *or* any other part thereof, dangerous *or* impassable.	F. Id. s. 3
360. Whosoever shall unlawfully and maliciously throw down, level, *or* otherwise destroy, in whole *or* in part, any turnpike gate *or* toll bar,—*or* any wall, chain, rail, post, bar, *or* other fence belonging to any turnpike gate *or* toll bar, *or* set up *or* erected to prevent passengers passing by without paying any toll directed to be paid by any act of parliament relating thereto,—*or* any house, building, *or* weighing engine erected for the better collection, ascertainment, *or* security of any such toll.	M. Id. s. 34

Page, &c. of Formalist.	Where triable.	As to Bail.	Punishment.	If Costs of Prosecution allowed.
Nos. 351, 352, p. 578.	Assizes.	Discretionary.	[*See preceding page for punishment.*]	Yes.
Nos. 353, 354, p. 578.	Sessions.	Id.	Penal servitude for 7—5 years;—*or* imprisonment for not exceeding two years, with *or* without hard labour, solitary confinement, and, if a male under 16, whipping (s. 31).	Yes.
Nos. 354—357, pp. 578, 579.	Id.	Id.	The same (s. 32).	Yes (s. 77).
No. 358, p. 579.	Assizes.	Id.	Penal servitude for life—5 yrs.; — *or* imprisonment not exceeding two years, with *or* without hard labour, solitary confinement, and, if a male under 16, whipping (s. 33).	Yes.
Nos. 359—361, pp. 579, 580.	Sessions.	Id.	Fine, *or* imprisonment, *or* both, at the discretion of the court (Common Law).	Yes (s. 77).

OFFENCE.	Class of O and Statute or A
MALICIOUS INJURIES—*continued.*	
361. *To Telegraphs.*] [*See offences described* 9, 10, *Vol. I. p.* 556, *they being also punishable summarily in the discretion of the justice.*]	M. 24 & 25 V s. 37.
362. *To Works of Art.*] Whosoever shall unlawfully and maliciously destroy *or* damage any book, manuscript, picture, print, statue, bust, *or* vase, *or* any other article *or* thing kept for the purposes of art, science, *or* literature, *or* as an object of curiosity in any museum, gallery, cabinet, library, *or* other repository, which museum, gallery, cabinet, library, *or* other repository, is either at all times *or* from time to time open for the admission of the public *or* of any considerable number of persons to view the same, either by the permission of the proprietor thereof *or* by the payment of money before entering the same,—*or* any picture, statue, monument, *or* other memorial of the dead, painted glass, *or* other ornament *or* work of art, in any church, chapel, meeting-house, *or* other place of divine worship, *or* in any building belonging to the Queen,—*or* to any county, riding, division, city, borough, poor law union, parish, *or* place,—*or* to any university, *or* college, *or* hall of any university —*or* to any inn of court,—*or* in any street, square, churchyard, burial ground, public garden *or* ground,—*or* any statue *or* monument exposed to public view, *or* any ornament, railing *or* fence surrounding such statue *or* monument.	M. Id. s.
363. *To Cattle.*] See Offence 107, *tit.* "Cattle."	
364. *To Ships, &c.*] Whosoever shall unlawfully and maliciously damage, otherwise than by fire, gunpowder, *or* other explosive substance, any ship *or* vessel, whether complete *or* in an unfinished state, with intent to destroy the same *or* render the same useless. [*See further, Offences* 40—43, *tit.* "Arson."]	F. Id. s. 46
365. Whosoever shall unlawfully mask, alter, *or* remove any light *or* signal, *or* unlawfully exhibit any false light *or* signal, with intent to bring any ship, vessel *or* boat into danger,—*or* shall unlawfully and maliciously do anything tending to the immediate loss *or* destruction of any ship, vessel, *or* boat, and for which no punishment is hereinbefore provided.	F. Id. s. 47.
366. Whosoever shall unlawfully and maliciously cut away, cast adrift, remove, alter, deface, sink, *or* destroy, *or* shall unlawfully and maliciously do any act with intent to cut away, cast adrift, remove, alter, deface, sink, *or* destroy, *or* shall in any other manner unlawfully and maliciously injure *or* conceal any boat, buoy, buoy rope, perch, *or* mark used *or* intended for the guidance of seamen *or* the purpose of navigation.	F. Id. s. 48.
367. Whosoever shall unlawfully and maliciously destroy any part of any ship *or* vessel which shall be in distress, *or* wrecked, stranded *or* cast on shore,—*or* any goods, merchandise *or* articles of any kind belonging to such ship *or* vessel.	F. Id. s. 49.

Page, &c. of Formalist.	Where triable.	As to Bail.	Punishment.	If Costs of Prosecution allowed.
Nos. 362, 363, p. 580.	Sessions.	Discretionary.	Impr. not exc. 2 yrs., with *or* without h. l. (s. 37).	Yes (s. 77).
Nos. 364—366, p. 589.	Id.	Id.	Imprisonment not exceeding six calendar months, with *or* without hard labour, and, if a male under 16, whipping (s. 39). [MEM. *This section contains a proviso "that nothing herein contained shall be deemed to affect the right of any person to recover by action at law damages for the injury so committed* (s. 39).]	Id.
No. 367. p. 580.	Sessions. [*See sect. 72, as to Admiralty jurisdiction.*]	Discretionary.	Pen serv. 7—5 years;—*or* imprisonment not exc. 2 yrs., h. l., s. c., and, if a male under 16, whipping (s. 46).	Yes.
Nos. 368, 369, p. 580.	Assizes. [*See sect. 72, as to Admiralty jurisdiction.*]	Id.	Penal servitude life—5 years;—*or* imprisonment not exceeding 2 years, hard labour, solitary confinement, and, if a male under 16, whipping (s. 47).	Yes.
No. 370, p. 580.	Sessions. [*See sect. 72, as to Admiralty jurisdiction.*]	Id.	Penal servitude 7—5 years;—*or* imprisonment not exceeding 2 years, hard labour, solitary confinement, and, if a male under 16, whipping (s. 48).	Yes.
No. 371, p. 581.	Id.	Id.	Pen. serv. 14—5 yrs.;—*or* impr. not exc. 2 yrs., h. l., s. c., and, if a male under 16, whipping (s. 49).	Yes.

OFFENCE.	Class of Statute or
MALICIOUS INJURIES—*continued.*	
368. *Other Injuries, if exceeding* £5.] Whosoever shall unlawfully and maliciously commit any damage, injury *or* spoil to *or* upon any real *or* personal property whatsoever, either of a public *or* private nature, for which no punishment is hereinbefore provided, the damage, injury *or* spoil being to an amount exceeding £5 [*committed at one time*, Reg. *v.* Williams, 9 *Cox's C. C.* 338; Reg. *v.* Shepherd, 37 *L. J.* (*N. S.*) *M. C.* 45; 17 *Law T., N. S.* 482.] [MEM. *The word* "maliciously," *in sect.* 51, *requires that an act to be criminal should be done wilfully. A conviction under that section, where the defendant, after fighting in a crowd in the street near the window of a house, separated himself from the crowd, picked up a stone, threw it at one of the persons with whom he had been fighting, missed his* *	M. 24 & 25 s. 5
369. The like offence, committed between the hours of nine in the evening and six the next morning [*i. e.* in the night.]	M. I
[*Abettors in Misdemeanors, see tit.* "Abettors."]	
[*Principals in the Second Degree and Accessories before the Fact to Felonies, see tit.* "Principals in Second Degree."]	
[*Accessories after the Fact, see tit.* "Accessories," *Offence* 12.]	
MANSLAUGHTER (*Note* 92).	
370. Whosoever shall be convicted of manslaughter [*i. e.* the unlawful killing of another, without malice, either express or implied, which may be either voluntary, upon a sudden heat, or involuntarily, but in the commission of some unlawful act.] [*Manslaughter abroad*, 24 & 25 *Vict. c.* 100, *ss.* 9, 10, *ante, pp.* 907, 908; *and manslaughter by soldiers, see* 25 & 26 *Vict. c.* 65.]	F. Common
MAN TRAPS. *See tit.* "Spring Guns and Man Traps."	
MANUFACTURE. Stealing goods in course of, *see Offence* 319, *tit.* "Larceny."	
MARKS OF TRADE. *See tit.* "Merchandise Marks."	
MARRIAGES.	
371. Clergymen solemnizing at improper place *or* time, *or* person falsely pretending to be in holy orders solemnizing. [*See further, tit.* "Registers."	F. Geo. 4, c. s. 21.
MEAT UNFIT. *See tit.* "Unwholesome Meat."	

92 "MANSLAUGHTER." *Indictment for Manslaughter or Murder—Offences abroad* 24 & 25 Vict. c. 100, s. 6, "in any indictment [*or* coroner's inquisition, *Reg.* v. *I* 10 Law T. 456] for murder or manslaughter,—or for being an accessory [after th to any murder or manslaughter,—it shall not be necessary to set forth the man which or the means by which the death of the deceased was caused, but it sh

Page, &c. of Formulist.	Where triable.	As to Bail.	Punishment.	If Costs of Prosecution allowed.
No. 372, p. 581.	Sessions.	Discretionary.	Impr. not exc. 2 yrs., with *or* without h. l. (s. 51). [*If the injury is not exc. £5 it is punishable summarily, see Offence* 13, *Vol. I. p.* 562.] **aim and hit a plate glass window above the value of £5, but did not intend to break the window, was quashed;* Reg. *v.* Pembleton, 43 *L. J., M. C.* 91.]	Yes (s. 77).
No. 373, p. 581.	Id.	Id.	Pen. serv. 5 yrs.;—*or* impr. not exc. 2 yrs. with *or* without h. l. (s. 51). [*For other punishments for offences under* 24 & 25 *Vict. c.* 97, *see titles* "Arson," "Cattle," "Gunpowder," "Letter (Threatening)," "Railways," "Riots."]	Id.
No. 374, p. 581.	Assizes.	Discretionary.	Pen. serv. life—5 yrs.;—*or* impr. not exc. 2 yrs., with *or* without h. l.,—*or* fine in addition, *or* without other punishment (24 & 25 Vict. c. 100, s. 5).	Yes.
Nos. 375, 376, pp. 581, 582.	Sessions. [*Prosecution within* 3 *years.*]	Discretionary	Pen. serv. 14 yrs.	Yes.

hint in any indictment for murder to charge that the defendant did feloniously, illy, and of his malice aforethought kill and murder the deceased;—and it ll be sufficient in any indictment for manslaughter to charge that the defendant feloniously kill and slay the deceased;—and it shall be sufficient in any indictment ist any accessory [after the fact] to any murder or manslaughter to charge the

OFFENCE.	Class of C and Statute or A
MEDICAL PRACTITIONERS.	
372. Any registrar wilfully making *or* causing to be made any falsification in any matter relating to the register [of qualified medical practitioners].	M. 21 & 22 V s. 38
373. Any person wilfully procuring *or* attempting to procure himself to be registered under the act, by making *or* producing or causing to be made *or* produced any false *or* fraudulent representation *or* declaration, either verbally *or* in writing;—*or* any person aiding and assisting him therein.	M. Id. s
MEMBER OF PUBLIC COMPANY. *See tit.* "Fraudulent Trustees," Offences 261—264.	
MENACES. *See Offence* 316, *tit.* "Larceny."	
MERCHANDISE MARKS (*Note* 93).	
374. With intent to defraud, *or* to enable another to defraud, forging *or* falsely applying any trade mark, *or* any forged trade mark, to any chattel *or* article [*see Note* 294, *Vol. I. pp.* 576, 577, *for definition of* "mark" *and* "trade mark"].	M. 25 & 26 Vi s. 2.
375. With intent to defraud, *or* to enable another to defraud, applying a forged trade mark to any vessel, case, wrapper, &c., in *or* with which any article is sold *or* intended to be sold.	Id. s. 3.
376. Persons aiding in the commission of the above offences.	Id. s. 13.
MERCHANT SHIPPING.	
I. Offences by Masters of Ships. II. Offences by Pilots, Shipping Masters, &c. III. Other Offences.	
I. Offences by Masters of Ships.	
377. Using improper certificate of registry (s. 52);—permitting to be carried papers, &c., with intent to conceal British character of ship *or* to assume a foreign character;—*or*	M. 17 & 18 Vict.

principal with the murder or manslaughter (as the case may be) in the manner l before specified, and then to charge the defendant as an accessory in the n heretofore used and accustomed." Turning a vicious animal on to a com culpable negligence, and if a person is killed the owner is liable (*Reg.* v. *Dent*, J. (N. S.) M. C. 119; 1 Leigh & Cave, C. C. 567). A master is not criminally for the death of an adult servant in neglecting to provide her with food, except special circumstances (see *Reg.* v. *Smith*, 34 L. J. (N. S.) M. C. 153; 12 Law T., 608). Where the offences are committed abroad, see 24 & 25 Vict. c. 100, s. *ante*, pp. 907, 908; and see 7 Geo. 4, c. 64, s. 12, Vol. I. p. 22. Bail may be ta coroners for manslaughter (22 Vict. c. 33).

93 "Merchandise Marks:" *Enactments in* "*The Merchandise Marks Act*, 18

Page, &c. of Formulist.	Where triable.	As to Bail.	Punishment.	If Costs of Prosecution allowed.
No. 377, p. 582.	Sessions.	Compulsory.	Impr. for any term not exc. 12 m. (s. 38).	No.
No. 378, p. 582.	Id.	Id.	The same (s. 39). [MEM. *Falsely pretending to be a registered person is punishable summarily. See Vol. I. p.* 576.]	No.
Nos. 379, 380, p. 582.	Sessions.	Compulsory.	Impr. not more than 2 yrs., with *or* without h. l.,—*or* fine,—*or* both impr. and fine,—and impr. until fine paid (s. 14).	No.
Nos. 381—384, p. 583.	Id.	Id.	The same. [*The articles to be forfeited and destroyed* (ss. 2, 3).]	No.
No. 385, p. 583.	Id.	Id.	The same as Offence 374, *supra*. [☞ *The sections in column* "Offence," *to which an* * *is placed, apply also to* "Fishing Boats," "Lighthouse Vessels," *and* "Pleasure Yachts." *See* "Pleasure Yachts," *Vol. I. p.* 666.]	No.
Nos. 386—395, p. 584.	Sessions. (see *Note* 94).	Compulsory.	Fine, *or* impr., with *or* without h. l. (s. 518, sub-s. 1). [*See over.*]	Yes. (ss. 267 and 518, sub-s. 1).

The following other provisions are in the 25 & 26 Vict. c. 88:—By sect 5, additions and alterations of trade marks made with intent to defraud are deemed forgeries; by sect. 9, it is not to be an offence to apply names or words known to be used for indicating particular classes of manufactures; sect. 10, as to the description of trade marks and forged trade marks in indictments, &c.; sect. 11, convictions not to affect any right to civil remedy by person aggrieved by offence (and see sect. 22 as to damages); sect. 12, intent to defraud, &c., any particular person need not be alleged in an indictment, &c., or proved; and by sect. 18, no person shall commence any proceeding for procuring the conviction of any offender "after the expiration of three years next after the committing of the offence, or one year next after the first discovery thereof by the person proceeding."

OFFENCE.	Class of O and Statute or Au
MERCHANT SHIPPING—*continued.*	
I. Offences by Masters of Ships—*continued.*	
making false declaration of qualification of owners (s. 10, sub-s. 2, 4, and 18 & 19 Vict. c. 91, s. 9); —falsifying agreements of seamen, *or* assisting therein, *or* procuring same to be done (s. 164*);—not making reports of character of persons discharged before shipping master, *or* making false reports of service, &c. (s. 176*);—forcing seamen *or* apprentices on shore, *or* leaving them behind before completion of voyage (s. 206*);—discharging *or* leaving apprentice abroad without certificate of some functionary (s. 207*);—misconduct, breach of duty, &c., endangering the ship, *or* life *or* limb (s. 239);—destroying, mutilating, &c., any entry in official log, *or* making a false entry therein (s. 284, sub-s. 3);—owners and masters of ships not obeying regulations concerning lights, fog signals, and sailing rules in act (25 & 26 Vict. c. 63, ss. 25, 26, 27). [*As to offences at sea by Masters, Seamen, or Apprentices, see ss.* 267*, 268*, 270* *of the* 17 & 18 *Vict. c.* 104, *and* 30 & 31 *Vict. c.* 124, *s.* 11, *in Note* 300, *Vol. I. pp.* 580—585.]	M. 17 & 18 c. 104. *[*For explanat asterisk (*) se previous page mencement of*
II. Offences by Pilots, Shipping Masters, &c.	
378. Pilots guilty of breach of duty, endangering ship, life, *or* limb.	M. Id. s. 3
379. Shipping master *or* other public officer granting *or* issuing any money order with a fraudulent intent.	F. Id. s. 17
380. Officer of Local Marine Board embezzling property. [Mem. *He is to be deemed to be a clerk or servant within s.* 68 *of* 24 & 25 *Vict. c.* 96, *p.* 1070.]	F. 25 & 26 Vict. s. 16.
III. Other Offences.	
381. Fraudulently altering forms issued by Board of Trade (s. 10);—making, &c. false representations for obtaining certificate of competency *or* service, *or* making use of forged certificate (s. 140*);—falsifying agreement with seamen (s. 164);—making or procuring to be made any false certificate of service, &c. of seamen, *or* forging certificate (s. 176*);—forgery *or* false representations in order to obtain wages *or* property of deceased seamen (s. 203*);—forgery *or* false representations in support of application to Admiralty for compensation on account of seamen volunteering into navy (s. 220*);—forging *or* altering certificate of Board of Trade as to passenger steamer (s. 320).	M. 17 & 18 V c. 104.
382. Forging, *or* assisting in forging, any register book, certificate of surveyor, of registry, of ownership, bill of sale, mortgage, &c.	F. Id. s. 101.

94 "Merchant Shipping:" *Venue.*] By 17 & 18 Vict. c. 104, s. 520, "
offence created by this act is to be deemed to have been committed either in the
in which the same was actually committed, or in any place in which the offender

Page, &c. of Formulist.	Where triable.	As to Bail.	Punishment.	If Costs of Prosecution allowed.
			[*See preceding page for punishment.*]	
Nos. 386—395, p. 584.	Sessions (see *Note* 94).	Compulsory.	[MEM. *By sub-sect.* 2, "*every offence declared by this act to be a misdemeanor shall also be deemed to be an offence hereby made punishable by imprisonment for any period not exceeding* 6 *months, with or without hard labour,*—or *by a penalty not exceeding* £100, *and may be prosecuted accordingly in a summary manner instead of being prosecuted as a misdemeanor.*"—*See tit.* "Merchant Shipping,"—*Vol. I. p.* 580.	Yes (s. 267, and 518, sub-s. 1).
No. 396, p. 584.	Id.	Id.	Same as Offence 377, *supra*	Id.
No. 397, p. 584.	Id.	Id.	Penal servitude, 5 yrs.	Yes.
..	Id.	Id.	Same as Offence 173, *tit.* "Embezzlement."	Yes.
Nos. 398—409, pp. 584, 585.	Id.	Id.	Fine, *or* impr. with *or* without h. l. (s. 518, sub-s. 1). [*See* MEM. *to Offence* 377, *equally applicable to these offences, which are likewise declared by the act to be misdemeanors.*]	Yes (s. 518, sub-s. 1).
No. 410, p. 585.	Assizes.	Discretionary.	Pen. serv. 7—5 years; *or* impr. not exc. 2 years (7 & 8 Geo. 4, c. 28, ss. 8, 9).	Yes.

ished against may be; and see sect. 521, in *Note* 300, Vol. I. p. 579, as to offences on board a ship at sea or in a foreign port.

OFFENCE.	Class of an Statute or
MERCHANT SHIPPING—*continued.*	
III. Other Offences—*continued.*	
383. Selling wreck *or* part of cargo in a foreign port.	F. 17 & 18 V s. 47
384. Forgery *or* making false representations in order to obtain money deposits in a seamen's savings' bank, *or* any interest thereon,—*or* assisting in offences.	M. 19 & 20 V s. 6.
385. The like offences as 384, *supra*, in relation to the "Merchant Seamen's Fund."	M. 14 & 15 Vi s. 55.
386. Every person who sends, *or* attempts to send, *or* is party to sending, *or* attempting to send, a British ship to sea in such unseaworthy state that the life of any person is likely to be thereby endangered, shall be guilty of a misdemeanor, unless he proves that he used all reasonable means to ensure her being sent to sea in a seaworthy state, or that her going to sea in such unseaworthy state was, under the circumstances, reasonable and justifiable; and for the purpose of giving such proof he may give evidence in such manner as any other witness. Every master knowingly taking the same to sea, guilty of a misdemeanor. A prosecution not to be instituted except with consent of the Board of Trade.	M. 39 & 40 Vi s. 4.
MILITARY LAW.	
387. Conveying into a military prison arms, tools, mask, &c. to facilitate escape of prisoner, or 388. Aiding by any means the escape *or* attempt to escape of prisoner from such prison.	F. 30 Vict. c. 13
MINES. *See tit.* "Arson," *Offences* 38, 39; *tit.* "Larceny," *Offences* 310, 311; *and tit.* "Malicious Injuries," *Offences* 354, 345.	
MISCONDUCT.	
389. Of officers of justice.	M. Common L
MISPRISION OF FELONY. *See tit.* "Felony."	
MORTGAGORS. *See tit.* "Vendors."	
MUNICIPAL CORPORATIONS.	
390. Any person authorized to receive the monies to arise from sale of annuities *or* securities purchased *or* transferred under "The Municipal Corporation Mortgages, &c. Act, 1860," *or* any dividends, *or* any other money, appropriating the same otherwise than is directed by that act, *or* by the Treasury.	M. 23 Vict. c. 16

Page, &c. of Formulist.	Where triable.	As to Bail.	Punishment.	If Costs of Prosecution allowed.
No. 411, p. 585.	Sessions (*Note* 94).	Discretionary.	Pen. serv. 5 yrs.	Yes.
Nos. 412, 413, p. 586.	Sessions, except for "Forgery," and then Assizes, *ante*, p. 973.	Id.	Pen. serv. 5 yrs.;—*or* impr. with *or* without h. l. not exc. 2 yrs.;—*or* summarily (*see Offence* 131, *Vol. I. p.* 606).	Yes (17 & 18 Vict. c. 104, ss. 267, 518, sub-s. 1).
Nos. 414, 415, p. 586.	Id.	Compulsory.	Pen. serv. 7—5 yrs.;—*or* summarily (*see Offence* 130, *Vol. I. p.* 606).	No.
..	Sessions.	Discretionary.	Fine, *or* impr., *or* both (s. 4). [*This misdemeanor is not punishable on summary conviction.*]	Yes.
No. 416, p. 586.	Sessions.	Discretionary.	Pen. serv. 6—4 yrs.;—*or* impr. with *or* without h. l. not exc. 2 yrs.	Yes.
..	Sessions.	Compulsory.	Fine *or* impr., *or* both.	No.
No. 417, p. 586.	Assizes (20 & 21 Vict. c. 54, s. 16, *though repealed, but before incorporated into* 23 *Vict. c.* 16).	Discretionary.	Pen. serv. 5 yrs.;—*or* to suffer such other punishment by impr. for not more than 2 yrs., with *or* without h. l., *or* by fine, as the court shall award (20 & 21 Vict. c. 54, s. 10).	Yes (20 & 21 Vict. c. 54, s. 15).

OFFENCE.	Class of a Statute or
MUNICIPAL ELECTIONS.	
390a. Any person who is guilty of a corrupt practice at an election shall be liable to the like actions, prosecutions, penalties, forfeitures and punishments, as if the corrupt practice had been committed at an election of members to serve in parliament. [*See* 17 & 18 *Vict. c.* 102, *ss.* 3, 4.] [MEM. *As to prosecuting for the above offences, see s.* 9.]	F. and M. 3 c. 60,
MURDER.	
391. Whosoever shall be convicted of murder (*Note* 95). [*Murder abroad, see* 24 & 25 *Vict. c.* 100, *ss.* 9, 10, *ante, pp.* 908, 909, *or on the high seas, see pp.* 903, 906.]	F. Comm
392. Accessory *after* the fact to murder. [*As to the trial at the Central Criminal Court of a soldier for murdering another soldier, see* 25 & 26 *Vict. c.* 65.] [*As to Assaults, &c. with Intent to Murder, see tit.* "Attempts to Murder."]	Id.
393. All persons who shall conspire, confederate, and agree to murder any person, whether he be a subject of her Majesty *or* not, and whether he be within the Queen's dominions *or* not,	M. 24 & 25 Vi s. 4.
and	
394. Whosoever shall solicit, encourage, persuade, *or* endeavour to persuade, *or* shall propose to any person, to murder any other person, whether he be a subject of her Majesty *or* not, and whether he be within the Queen's dominions *or* not (*Note* 97).	
395. Any person knowingly and wilfully signing any false certificate [of surgeon of prison] *or* declaration [of sheriff, gaoler, *or* chaplain] of death of person against whom judgment of death executed within prison (s. 4).	M. 31 Vict. c.

95 "MURDER:" *Definition of "Murder"—Indictment.*] "Murder" is desc Sir Edward Coke as "when a person of sound memory and discretion un killeth any reasonable creature in being, and under the king's peace, wit aforethought, either express or implied." (See recent case of *Reg.* v. *Allen*, 17 N. S. 222, for the ruling of JJ. Blackburn and Mellor.) As to the indictm *Note* 92, *ante*, p. 1134. Upon an indictment for murder the jury may find the not guilty of the murder, but guilty of manslaughter (2 Hawk. c. 47, ss. 4, 24 & 25 Vict. c. 100, s. 7, "no punishment or forfeiture shall be incurred person who shall kill another by misfortune, or in his own defence, or in a manner without felony." On an indictment for murder the accused may be c of manslaughter, or of an attempt to murder (14 & 15 Vict. c. 100, s. 9, in *ante*, p. 1034), or in case of child murder, of concealment of birth (see *Note* p. 1058). See also *Reg.* v. *Fretwell*, 1 Leigh & Cave, C. C. 161.

96 *Carrying out Capital Punishment within Prisons.*] By "The Capital Pun Amendment Act, 1868," 31 Vict. c. 24, s. 2, "judgment of death to be exec any prisoner sentenced after the passing of this act [*i. e.*, 29th May, 1868] indictment or inquisition for murder, shall be carried into effect within the wall prison in which the offender is confined at the time of execution." Sect. 3. sheriff charged with the execution, and the gaoler, chaplain, and surgeon prison, and such other officers of the prison as the sheriff requires, sh

Page, &c. of Formulist.	Where triable.	As to Bail.	Punishment.	If Costs of Prosecution allowed.
Nos. 418, 419, pp. 586, 587.	Assizes (5 & 6 Vict. c. 38).	Discretionary, but see p. 979.	Death (24 & 25 Vict. c. 100, ss. 1, 2, 3). [*See Note* 96, *as to execution within prison.*]	Yes.
..	Id.	Id.	Penal servitude life—5 years;—*or* imprisonment not exceeding 2 years, with *or* without h. l. (24 & 25 Vict. c. 100, s. 67).	Yes.
Nos. 420, 421, p. 587.	Id.	Id.	Pen. servitude not more than 10 and not less than 5 years;—*or* imprisonment not exc. 2 years, with *or* without hard labour (s. 4).	Yes (s. 77).
..	Sessions.	Compulsory.	Impr. not exc. 2 years, with *or* without h. l. and s. c. (s. 9).	No.

nt at the execution. Any justice of the peace for the county, borough, or other diction to which the prison belongs, and such relatives of the prisoner or other ons as it seems to the sheriff or the visiting justices of the prison proper to admit in the prison for the purpose, may also be present at the execution." Sect. 4. "As as may be after judgment of death has been executed on the offender, the surgeon e prison shall examine the body of the offender, and shall ascertain the fact of h, and shall sign a certificate thereof, and deliver the same to the sheriff. The iff and the gaoler and chaplain of the prison, and such justices and other persons nt (if any) as the sheriff requires or allows, shall also sign a declaration to the t that judgment of death has been executed on the offender." [Forms of sur- 's certificate and declaration of the sheriff and others are given in the schedule to nt (sect. 12), and the signing a false one is an indictable misdemeanor by sect. 9, nce 395.] Sect. 5. "The coroner of the jurisdiction to which the prison belongs ain judgment of death is executed on any offender, shall, within twenty-four s after the execution, hold an inquest on the body of the offender, and the jury at inquest shall inquire into and ascertain the identity of the body, and whether gment of death was duly executed on the offender; and the inquisition shall be in licate, and one of the originals shall be delivered to the sheriff. No officer of the on or prisoner confined therein shall in any case be a juror on the inquest." t. 6. "The body of every offender executed shall be buried within the walls of the

OFFENCE.	Class of C and Statute or A
MUSIC AND DANCING.	
396. Keeping place for, without licence, in the metropolis, *or* within twenty miles thereof.	25 Geo. 2, c.
MUTINY, inciting to.	37 Geo. 3,
NAVAL PRISONS. *See* 29 & 30 *Vict. c.* 109, *ss.* 82, 83.	
NAVAL STORES.	
397. Without lawful authority (proof of which lies on the accused) applying any of the authorized marks of ownership in or on any such stores. [*See description of the marks in Note* 327, *Vol. I. p.* 640.]	M. 32 Vict. c. (*Note* 96
398. With intent to conceal her Majesty's property in any stores, taking out, destroying, *or* obliterating, wholly or in part, any such mark.	F. Id. s.
NAVIGATION, Obstructing. *See Offence* 357, *tit.* "Malicious Injuries."	
NAVY (DISCIPLINE), 29 & 30 Vict. c. 109, s. 45.	
NAVY (MARINE FORCES).	
399. Fraudulently confessing himself to be a deserter [to be deemed guilty of obtaining money under false pretences within 24 & 25 Vict. c. 96] [*or* punished summarily].	M. 30 Vict. c. 1
NEWFOUNDLAND.	
400. Crimes in. [*See* 10 & 11 *Will.* 3, *c.* 25, *s.* 13.]	
NITRO-GLYCERINE. *See tit.* "Dangerous Goods," "Explosive Substances."	

prison within which judgment of death is executed on him; provided that if her Majesty's principal secretaries of state is satisfied on the representation visiting justices of a prison that there is not convenient space within the walls for the burial of offenders executed therein, he may, by writing under his appoint some other fit place for that purpose, and the same shall be used accordi Sect. 7. "One of her Majesty's principal secretaries of state shall from time make such rules and regulations to be observed on the execution of judgment of in every prison as he may from time to time deem expedient for the purpose, as of guarding against any abuse in such execution, as also of giving greater sol to the same, and of making known without the prison walls the fact that such tion is taking place;" and by sect. 8, "all such rules and regulations shall be lai the tables of both houses of parliament within six weeks after the making ther if parliament be not then sitting, within fourteen days after the next meeting the By sect. 10, "Every certificate and declaration and the duplicate of the inqu required by this act shall in each case be sent with all convenient speed by the to one of her Majesty's principal secretaries of state, and printed copies of the several instruments shall as soon as possible be exhibited, and shall for twent hours at least be kept exhibited on or near the principal entrance of the prison which judgment of death is executed." Sect. 11. "The duties and powers by imposed on or vested in the sheriff may be performed by and shall be vested under-sheriff or other lawful deputy, acting in his absence, and with his auth

Page, &c. of Formalist.	Where triable.	As to Bail.	Punishment.	If Costs of Prosecution allowed.
..	..	..	[*Prosecuted as for a Disorderly House; see tit.* "Disorderly House."]	
..	..	..	[*Mutiny at sea, see* "Piracy," *and Note* 101, post.	
No. 422, p. 587.	Sessions.	Discretionary.	Impr. for any term not exc. 2 yrs., with *or* without h. l. (s. 4).	Yes (24 & 25 Vict. c. 96, s. 121; see *Note* 98).
No. 423, p. 587.	Id.	Id.	Pen. serv. not exc. 5 yrs.,—*or* impr. for not exc. 2 yrs., with *or* without h. l. and s. c. (s. 5).	Yes.
No. 425, p. 587.	Sessions.	Discretionary.	Pen. serv. 7—5 years; —*or* fine, *or* impr., *or* both;—the impr. with h. l. and s. c.	Yes (24 & 25 Vict. c. 96, s. 121; 14 & 15 Vict. c. 55, *ante*, p. 893).

any other officer charged in any case with the execution of judgment of death. duties and powers by this act imposed on or vested in the gaoler of the prison, may performed by and shall be vested in the deputy gaoler (if any) acting in his absence with his authority, and (if there is no officer of the prison called the gaoler) by the mor, keeper, or other chief officer of the prison, and his deputy (if any), acting as said. The duties and powers by this act imposed on or vested in the surgeon, may performed by and shall be vested in the chief medical officer of the prison (if there is officer of the prison called the surgeon). The duties by this act imposed on the plain may, in the event of the absence of the chaplain, be performed by the assistant plain, or other person acting in place of the chaplain." Sect. 15, "The omission to ply with any provision of this act shall not make the execution of judgment of th illegal in any case where such execution would otherwise have been legal." Sect. "Except in so far as is hereby otherwise provided, judgment of death shall be ied into effect in the same manner as if this act had not passed."

[*Enactment.*] By "The Vexatious Indictments Act," 22 & 23 Vict. c. 17, s. 1, an ictment cannot be preferred for "conspiracy," without a previous inquiry before ices, or the order of a judge, &c. (see *ante*, pp. 876, 877).

["NAVAL STORES:" *Apprehension of Offenders—Search Warrant—Prosecution by Admiralty—Incorporation of Provisions of Larceny Act*, 1861.] 32 Vict. c. 12, s. 10, incorporates parts of the "Larceny Consolidation Act, 1861," 24 & 25 Vict. c. 96, viz. ss. 93 to 100, 103, 107 to 113, and 115 to 121. These provisions relate as follow:—

OFFENCE.	Class of an Statute or
NUISANCES.	
401. Obstructing highway, river, bridge,—not repairing same,—carrying on offensive or hazardous trade,—keeping large quantities of combustible matters near dwellings, keeping a fierce dog or a bull loose,—and numerous others. [*See further tits.* "Disorderly Houses," "Gaming Houses," "Indecency," "Public Health," *and* "Unwholesome Meat."]	M. Comm
OATHS (UNLAWFUL).	
402. Administering,—*or* causing to be administered,—any oath to commit any treason *or* murder, *or* any felony punishable by law with death.	F. 52 Geo. 3 s. 1.
403. Taking same without being compelled.	Id.
404. Administering,—*or* causing to be administered,—*or* present at the administering of, any oath to disturb the public peace, *or* to engage in seditious purposes, &c.;—*or* taking same without being compelled.	F. 37 Geo. 3 s. 1.
OATHS (VOLUNTARY).	
405. Justice of the peace *or* other person administering an oath when not authorized by law. [*See authorities, tit.* "Oaths," *in Chap. II. of Part III.*]	M. 5 & 6 Will. s. 13.
OBSCENE BOOKS. *See tit.* "Indecency."	
OFFICE.	
406. Buying *or* selling of offices,—*or* soliciting for money, &c. [MEM. *By* "*The Regulation of the Forces Act*, 1871," 34 & 35 *Vict. c.* 86, *s.* 2, *no person is to be punished under the* 5 & 6 *Edw.* 6 *and* 49 *Geo.* 3 *for any offence committed previously to the* 1*st Nov.* 1871.] [*For refusing to execute an office, see tit.* "Constables," *Offence* 149.]	M. 5 & 6 Edw. 6 49 Geo. 3, c. 12 6 Geo. 4, c. 10
ORE, Stealing. *See Offences* 310, 311, *tit.* "Larceny."	
OYSTERS. *See Offences* 298—300, *tit.* "Larceny."	
PARTNERS, Larceny *or* Embezzlement by. *See tits.* "Bankers," "Embezzlement," and *Offence* 325, *tit.* "Larceny."	

Sect. 98, as to principals in the second degree, and accessories in felonies, and a in misdemeanors; sect. 100, as to restitution of property; sect. 103, as to appreh of offenders by persons in general without warrant and issue of search warra *Note* 78, *ante*, p. 1107); sect. 115, as to Admiralty jurisdiction; sect. 116, as t of indictment for subsequent offence; sect. 117, fine and sureties in addition to imp ment, &c.; sect. 118, as to hard labour; sect. 119, solitary confinement and whi and sect. 121, costs allowed in misdemeanors. See also, sect. 12, in *Note* 339, p. 641, as to summary convictions.

Page, &c. of Formulist.	Where triable.	As to Bail.	Punishment.	If Costs of Prosecution allowed.
Nos. 425—434, pp. 488, 489.	Sessions.	Compulsory.	Fine *or* impr., *or* both; and nuisance to be abated if continuing. [*See* 1 *Russell on Cr.* 4*th ed. p.* 435, *and* Reg. *v.* Stephens, 14 *L. T., N. S.* 593.] [*Nuisances on Thames*, 29 & 30 Vict. c. 89, s. 65.]	Yes, in some cases (1 & 2 Geo. 4, c. 41).
No. 435, p. 590.	Assizes (*Note* 99).	Discretionary.	Pen. serv. life—15 yrs.; —*or* impr. not exc. 3 yrs., h. l. and s. c.	Yes.
No. 436, p. 590.	Id.	Id.	Pen. serv. for life *or* such term of years as court shall adjudge.	Yes.
Nos. 437, 438, p. 590.	Assizes.	Id.	Pen. serv. not exc. 7 nor less than 5 yrs.	Yes.
..	Sessions.	Compulsory.	Fine, *or* impr., *or* both.	No.
..	Assizes.	Compulsory.	Fine, *or* impr., *or* both. [*As to trafficking in commissions, see* 25 *Vict. c.* 78.]	No.

99 "Oaths (Unlawful):" *Venue.*] For the Offences 402, 403, the offender may be tried before a court of oyer and terminer in any county in England, as if the offence had been committed there (52 Geo. 3, c. 104, s. 8).

100 "Perjury:" *Mode of Prosecution for Perjury.*] Since the passing of the 11 & 12 Vict. c. 42, the justice may commit for trial for perjury at common law, as the act includes any "indictable offence" (see *ante*, p. 893). The course of proceeding in cases of perjury and subornation of perjury before justices has been specially provided for by 14 & 15 Vict. c. 100, s. 19, set out in Vol. I. p. 91. Sects. 20, 21, 22 relate to

OFFENCE.	Class of C and Statute or A
PERJURY (*Note* 100).	
407. Perjury *or* subornation of perjury at common law. [MEM. *The oath must be taken*—1. *In a judicial proceeding*; 2. *Before a competent jurisdiction or authority*; 3. *It must be material to the question depending* (Reg. *v.* Gibbons, 31 *L. J.* (*N. S.*) *M. C.* 98; 1 *Leigh & Cave, C. C.* 109; 4. *It must be false, or not known by defendant to be true*; *and* 5. *It must be taken deliberately and intentionally.*]	M. Commo *[1 Hawk. c. 6 on Cr., 4th &c.; Arch by Bruce, pp. 754—77
408. Perjury *or* subornation of perjury, by statute 5 Eliz. c. 9. [*Vide* MEM. *to Offence No.* 407, *supra.*]	M. 5 Eliz. c.
409. Perjury before a committee of the House of Lords [*or* before the House of Commons *or* a committee thereof, 34 & 35 Vict. c. 83, s. 1].	M. 21 & 22 Vi s. 3.
410. Perjury before surrogate under Probate Act.	M. 21 & 22 Vi s. 34.
411. Perjury before Divorce Court, *or* in affidavits before commissioners.	M. 20 & 21 Vic s. 50; 21 & 2 c. 108, s.
412. Perjury before a judge of a County Court. [MEM. *There are various other offences of this character punishable under particular statutes. As to perjury in affidavits, &c. taken out of England in relation to crown suits,** (*See opposite.*)	M. 9 & 10 Vic s. 84.
PERSON, Larceny from the. *See Offence* 312, *tit.* "Larceny."	
PERSONATION. *See* "False Personation."	
413. Personation of soldiers for their prize money, &c. [*Of seamen, see tit.* "Admiralty."	F. 2 Will. 4, c. 5 7 Geo. 4, c. 16,
414. Whosoever, without lawful authority or excuse (the proof whereof shall lie on the party accused), shall, in the name of any other person, acknowledge any recognizance *or* bail, *or* any cognovit actionem, *or* judgment, *or* any deed *or* other instrument, before any court, judge, *or* person lawfully authorized in that behalf.	F. 24 & 25 Vict s. 34.

the form of the indictment, &c. No depositions of witnesses will be necess taken under the enactment of 14 & 15 Vict. c. 100, s. 19, as in ordinary cases mitment for trial; but if the prosecution should not be made under it, it may menced in the usual way by an information, warrant and depositions as in other of indictable offences. The forms of commitment and certificate of prosecution directed, will be found in Oke's "*Formulist*," 6th ed. pp. 591, 592, Nos. 4 The recognizance of bail will be No. 71, p. 501; to prosecute, No. 64, p. 497. more than one offender charged, there must be separate examinations, as th uttered by one cannot possibly be applied to those which proceed from another v. *Reg.*, 3 T. R. 103, 104; *R.* v. *Phillips*, 2 Stra. 921; 2 Hawk. c. 25, s. 89). & 23 Vict. c. 17, *ante*, pp. 875, 876, an indictment cannot be preferred for "p

Page, &c. of Formulist.	Where triable.	As to Bail.	Punishment.	If Costs of Prosecution allowed.
Nos. 439, 440, p. 591.	Assizes.	Discretionary (and see 14 & 15 Vict. c. 100, s. 19, Vol. I., p. 91).	Fine and impr. [with h. l., 3 Geo. 4, c. 114], and by 2 Geo. 2, c. 25, s. 2, pen. serv. 7—5 years;—*or* impr. and h. l. for not exc. 7 years [and incompetency as a witness].	Yes (14 & 15 Vict. c. 55, s. 1, and see 14 & 15 Vict. c. 100, s. 19, Vol. I., p. 91).
Id.	Id.	Id.	The same.	Id.
..	Id.	Id.	The same.	No.
No. 441, p. 591. No. 442, p. 591.	Id.	Id.	The same. *[*see* 28 & 29 *Vict. c.* 104, *ss.* 19, 43, *being triable in England where offender is in custody.*	Yes (14 & 15 Vict. c. 55, s. 1).
No. 445, p. 593.	Assizes.	Discretionary.	Pen. serv. life—5 yrs. (9 & 10 Vict. c. 24, s. 1).	Yes.
No. 446, p. 593.	Sessions.	Id.	Pen. serv. 7—5 yrs.;—*or* impr. not exc. 2 yrs., with *or* without h. l. and s. c. (s. 34). [*Personation of Voters, see tit.* "Elections (Parliamentary").]	Yes.

"subornation of perjury" without a previous inquiry before justices, or by order of dge, &c., or the prosecution is directed by 14 & 15 Vict. c. 100, s. 19, *supra*. (See v. *Heane*, 33 L. J. (N. S.) M. C. 115, as to what offences are "perjury" within enactment, and *Reg.* v. *Tomlinson*, 36 L. J. (N. S.) M. C. 41; 15 Law T., N. S.

"PIRACY:" *Piracy at Common Law and by Statute.*] The offence of piracy at mon law is nothing more than robbery upon the high seas; but by statutes passed various times, and still in force, many artificial offences have been created (4 Bla. m. 72; Boothby's Synopsis, 2nd edit. p. 347). Those other offences which are lared piracy are:—Acts of hostility by a subject of this realm against a subject at , under colour of a foreign commission (11 & 12 Will. 3, c. 7, s. 8; 18 Geo 2, c. 30,

OFFENCE.	Class of Of and Statute or Au
PHARMACY ACTS, 1852, 1868.	
414a. Any registrar wilfully making *or* causing to be made any falsification in any matter relating to the registers of pharmaceutical chemists and chemists and druggists, —*or* any person wilfully procuring *or* attempting to procure himself to be registered under the Pharmacy Act, 1852 *or* 1868, by making *or* producing, *or* causing to be made *or* produced, any false *or* fraudulent representation *or* declaration, either verbally *or* in writing,— *or* any person aiding *or* assisting him therein.	M. 15 & 16 Vi ss. 15, 16; 3 Vict. c. 121,
PICTURES, Damaging in Museums. *See Offence* 362, *tit.* "Malicious Injuries."	
PIRACY.	
415. Piracy at common law (*see Note* 101).	F. Common
[*As to piracy by statute, see also Note* 101.]	
416. Whosoever, with intent to commit,—*or* at the time of *or* immediately before *or* after committing,—the crime of piracy, in respect of any ship *or* vessel, shall assault with intent to murder any person on board of *or* belonging to such ship *or* vessel,—*or* stab, cut *or* wound such person,—*or* do any act whereby the life of a person may be endangered.	F. 7 Will. 4 & c. 88, s. 2
Accessory *after* the fact. [*See ante, pp.* 904, 905, *as to the jurisdiction of the Admiralty, and see tit.* "Sea, Offences at."]	F. Id. s. 4
POISON.	
417. *Administering Poison to inflict Injury, &c.*] Whosoever shall unlawfully and maliciously administer to *or* cause to be administered to *or* taken by any other person any poison *or* other destructive *or* noxious thing, so as thereby to endanger the life of such person, *or* so as thereby to inflict upon such person any grievous bodily harm.	F. 24 & 25 Vict. s. 23.
418. Whosoever shall unlawfully and maliciously administer to *or* cause to be administered to *or* taken by any other person any poison *or* other destructive *or* noxious thing, with intent to injure, aggrieve *or* annoy such person. [*Administering with intent to murder, and attempting to administer, see Offences* 65—68, *tit.* "Attempts to Murder," *administering to procure abortion, tit.* "Abortion."]	M. Id. s. 24.

s. 1). Forcibly boarding a merchant ship, and throwing overboard or destroyin goods. Trading with pirates, or fitting out a vessel for that purpose (8 Geo. 1, s. 1). Master or seamen running away with the ship or goods, or laying violent on or confining the master, or making a revolt in the ship (11 & 12 Will. 3, c. 7, Dealing in slaves upon the high seas, or in any place where the admiral has jurisdic

Page, &c. of Formalist.	Where triable.	As to Bail.	Punishment.	If Costs of Prosecution allowed.
..	Sessions.	Compulsory.	*Under* 15 & 16 *Vict. c.* 56, fine, *or* imprisonment, *or* both. *Under* 31 & 32 *Vict. c.* 121, *s.* 14, imprisonment for any term not exceeding 12 months [*see* 32 & 33 *Vict. c.* 117, *s.* 1].	No.
Nos. 447, 449, 450, pp. 593, 594.	Central Crim. Court (4 & 5 Will. 4, c. 36, s. 22), *or* Assizes (7 & 8 Vict. c. 2, s. 1; see *ante*, p. 903, *Note* 16).	Discretionary.	The same as if a robbery committed upon land (7 & 8 Geo. 4, c. 28, s. 12; see Offence 312, *tit.* "Larceny").	Yes (7 Geo. 4, c. 64, s. 27; 7 & 8 Vict. c. 2, s. 1).
No. 448, p. 593.	Id.	Id.	Death. [Sentence recorded, 4 Geo. 4, c. 48, s. 1; 2 & 3 Vict. c. 56, s. 17.]	Id.
..	..	Id.	Imprisonment not exceeding 2 years, hard labour, and solitary confinement.	Id.
No. 451, p. 594.	Sessions.	Discretionary.	Pen. serv. 10—5 years; —*or* impr. not exc. 2 yrs., with *or* without h. l. (s. 23). [*The jury may find the accused guilty of the misdemeanor, Offence* 418, *infra* (*s.* 25).]	Yes.
No. 452, p. 594.	Id.	Id.	Pen. serv. 5 years;—*or* impr. not exc. 2 yrs., with *or* without h. l. (s. 24). [*See* Reg. *v.* Wilkins, 31 *L. J.* (*N. S.*) *M. C.* 72; 5 *Law T.*, *N. S.* 330.]	Yes (s. 77).

kept as mentioned (5 Geo. 4, c. 113; and see 25 & 26 Vict. c. 40, s. 12). These offences now punishable by pen. serv. life—5 yrs.;—or impr. not exc. 3 years, h. l. and s. c. Will. 4 & 1 Vict. c. 88, s. 3; 9 & 10 Vict. c. 24, s. 1, *ante*, p. 1010). There are provisions in each of the Criminal Law Acts, 1861, as to the Admiralty jurisdiction, *i. e.*, & 25 Vict. c. 94, s. 9 (Accessories); 24 & 25 Vict. c. 96, s. 115 (Larceny); 24 & 25

OFFENCE.	Class of C and Statute or A
POLICE. Stealing *or* embezzling property. *See tit.* "Public Service."	
POOR.	
419. Parish officer promoting marriage of the mother of a bastard child improperly.	M. 7 & 8 Vic s. 8.
420. Wilfully injuring, &c. Poor Rate Book,—*or* giving false evidence before Union Assessment Committee.	M. 25 & 26 Vi s. 40.
421. Person employed in execution of a warrant for removal of Irish poor, wilfully deserting pauper on the journey.	M. 26 & 27 Vi s. 4.
PORTS, Destroying works of. *See Offences* 356, 357, *tit.* "Malicious Injuries."	
POST OFFICE (*Note* 102).	
422. Stealing *or* embezzling letters. [*See s.* 47, *for the interpretation of the terms* "Letters," *&c. used in this title, and* Reg. *v.* Shepherd, 25 *L. J.* (*N. S.*) *M. C.* 52; 17 *Law T., N. S.* 482.]	F. 7 Will. 4 & c. 36, s. 2
423. Stealing *or* embezzling letters, if containing money, &c. [*As to what is a stealing, see* Reg. *v.* Poynton, 32 *L. J.* (*N. S.*) *M. C.* 29; 1 *Leigh & Cave, C. C.* 247.]	Id.
424. Stealing from letters.	Id. s. 27.
425. Stealing a post letter bag, letters from it *or* a mail, *or* stopping a mail, &c.	Id. s. 28.
426. Stealing a post letter from a post office packet.	Id. s. 29.
427. Receiving letters, bags, money, &c. stolen, embezzled, &c.	Id. s. 30.
428. Opening *or* delaying letters.	M. Id. s. 25.
429. Retaining *or* secreting, *or* (being required) refusing to deliver up, letters, &c. lost *or* misdelivered.	Id. s. 31.
430. Stealing *or* detaining parliamentary votes, &c. *or* newspapers.	Id. s. 32.
431. Writing, &c. on newspapers sent by post.	Id. s. 5.

Vict. c. 97, s. 72 (Malicious Injuries); 24 & 25 Vict. c. 98, s. 50 (Forgery); 24 Vict. c. 99, s. 36 (Coin); and 24 & 25 Vict. c. 100, s. 68 (Offences against the Per
102 "Post Office:" *Venue—Ownership of Property.*] The offence of every offe against the Post Office Acts may be laid and charged to have been committed in, be dealt with, &c., either in the county or place where committed, or in any cou &c. in which the offender is apprehended or is in custody (see 7 Will. 4 & 1 V c. 36, s. 37). See s. 40, and 11 & 12 Vict. c. 88, s. 5, as to the mode of describing

Pages, &c. of Formulist.	Where triable.	As to Bail.	Punishme
..	Sessions.	Compulsory.	Fine, *or* impr.,
..	Id.	Id.	The sam
..	Id.	Id.	Fine not exceed —in default ment, impri not exceedi months.
No. 453, p. 594.	Sessions (*Note* 102).	Discretionary.	Pen. serv. 7—5 *or* impr. not yrs., h. l. an
No. 454, p. 594.	Assizes.	Id.	Pen. serv. life— —*or* impr. 4 yrs., h. l. a
No. 454, p. 594.	Id.	Id.	The sam
Nos. 456, 456, p. 595.	Id.	Id.	The sam
No. 458, p. 595.	Sessions.	Id.	Pen. serv. 14— —*or* impr. nc yrs., h. l. and
No. 459, p. 595.	Assizes.	Id.	Pen. serv. life— —*or* impr. no yrs., h. l. and
Nos. 460, 461, p. 595.	Sessions.	Compulsory.	Fine, *or* impr. (w and s. c.), *or*
No. 462, p. 595.	Id.	Id.	Fine and impr. w and s. c.
..	Id.	Id.	The same
..	Id.	Id.	Fine, *or* impr.,

ship of property sent by the post, persons employed under the P
erty of the Post Office, it being sufficient to allege such prope
ty's Postmaster General." A message delivered at a post offic
Postal telegraph, or a transcript thereof by an officer of the Po
within the 1 Victt. c. 36 (32 & 33 Vict. c. 73, s. 23); and so is
card sent by post (33 & 34 Vict. c. 79, s. 16).

OFFENCE.	Class of C and Statute or A
POST OFFICE—*continued.*	
432. Forging the handwriting of the Receiver-General of the Post Office.	F. 7 Will. 4 c. 36, s.
433. Forging the superscription of a post letter.	F. Id. s.
434. Forging dies for marking postage *or* postage stamps, &c.	F. 3 & 4 Vic s. 22.
435. Making moulds, &c. used for postage, envelopes, &c.	Id. s. 1
436. Having possession of postage envelopes before issued for public use.	M. Id. s.
Accessories *after* the fact.	F. 7 Will. 4 & c. 36, s.
437. Soliciting others to commit a felony *or* misdemeanor.	M. Id. s.
438. Officer of Post Office granting *or* issuing any money order with a fraudulent intent. [*Embezzlement by Officers of the Post Office, see tit.* "Public Service."]	F. 11 & 12 Vic s. 4.
POUNDBREACH.	
439. Rescuing cattle, &c. distrained for rent *or* damage feasant. [*See tit.* "Escape, &c.," *Offence* 190.	M. Common
PRINCIPALS IN SECOND DEGREE.	
440. Every principal in the second degree,—and every accessory before the fact, in case of every felony punishable under the "Larceny, &c." Act.	F. 24 & 25 Vict. s. 98.
[*See definition, ante, p.* 884, *Note* 13.]	
441. The like, under the "Malicious Injuries to Property" Act.	F. Id. c. 97, s.
442. The like, under the "Forgery" Act.	F. Id. c. 98, s.
443. The like, under the "Coinage Offences" Act.	F. Id. c. 99, s.
444. The like, under the "Offences against the Person" Act.	F. Id. c. 100, s.
PRISONS. *See titles* "Escape, Prison Breach and Rescue," *and* "Naval Prisons."	

Page, &c. of Principal.	Where triable.	As to Bail.	Punishment.	If Costs of Prosecution allowed.
..	Assizes.	Discretionary.	Pen. serv. life—5 yrs.; —*or* impr. not exc. 4 yrs., h. l. and s. c.	Yes.
..	Id.	Id.	Pen. serv. 7—5 yrs.	Yes.
..	Id.	Id.	Pen. serv. life—5 yrs.; —*or* impr. not exc. 4 yrs.	Yes.
..	Sessions.	Id.	Pen. serv. 7—5 yrs.;—*or* impr. not less than 2 yrs.	Yes.
..	Id.	Compulsory.	Impr. not exc. 3 yrs.	No.
..	Sessions *or* Assizes.	..	Impr. (with h. l. and s. c.) not. exc. 2 yrs.	Yes.
..	Sessions.	Id.	The same.	No.
..	Id.	Discretionary.	Pen. serv. for not less than 5 years; — *or* impr. not exc. 3 yrs.	Yes.
Nos. 463, 464, p. 596.	Sessions.	Compulsory.	Fine, *or* impr. *or* both [2 *Hawk. c.* 21, *s.* 20].	No.
Same as for the principal.	Where principal triable (but see 24 & 25 Vict. c. 94, s. 7, as to accessories, *ante*, p. 885.	Discretionary.	The same as the principal in the first degree is punishable (s. 98).	Yes.
	Id.	Id.	The same (s. 56).	Yes.
	Id.	Id.	The same (s. 49).	Yes.
	Id.	Id.	The same (s. 35).	Yes.
	Id.	Id.	The same (s. 67).	Yes.

OFFENCE.	Class c s Statute or
PRIZE FIGHTS.	
415. Persons present and aiding thereat.	M. Com
[*See further, Chap. II. of Part III. tit.* "Prize Fights."	
PROCURATION, Signing bills, &c. by, without authority.	
PUBLIC SERVICE (*Note* 103).	
446. *Larceny by Servants.*] Whosoever, being employed in the public service of her Majesty,—*or* being a constable *or* other person employed in the police of any county, city, borough, district *or* place whatsoever,—shall steal any chattel, money *or* valuable security belonging to *or* in the possession *or* power of her Majesty,—*or* intrusted to *or* received *or* taken into possession by him by virtue of his employment. [*Note* 104.]	F. 24 & 25 V s. G
447. *Embezzlement by Servants.*] Whosoever, being employed in the public service of her Majesty,—*or* being a constable *or* other person employed in the police of any county, city, borough, district *or* place whatsoever,—and intrusted by virtue of such employment with the receipt, custody, management *or* control of any chattel, money or valuable security, shall embezzle any chattel, money *or* valuable security which shall be intrusted to *or* received *or* taken into possession by him by virtue of his employment, *or* any part thereof,—*or* in any manner fraudulently apply *or* dispose of the same *or* any part thereof to his own use *or* benefit, *or* for any purpose whatsoever except for the public service, shall be deemed to have feloniously stolen the same from her Majesty. [*Note* 104.]	F. Id. s.
PUBLIC STORES.	
447a. Any person without authority applying any of the marks mentioned in the first schedule of the act in *or* on any stores.	M. 38 & 39 Vic s. 4.
447b. Destroying *or* obliterating (with intent to conceal her Majesty's property in any stores) by taking out the marks.	F. Id. s.
QUAY, WHARF, &c., Damaging. *See Offences* 356, 357, *tit.* "Malicious Injuries."	

103 "PUBLIC SERVICE:" *Apprehension of Offenders without Warrant—Search W —Restitution of Property.*] *Note* 78, *ante*, p. 1107, tit. "*Larceny*," is equally appl here.

104 *Three Charges within Six Months—How Property to be laid.*] Three distinc of embezzlement, fraudulent application or disposition within six months m charged in the same indictment, as in other cases (24 & 25 Vict. c. 96, s. 71) persons indicted for embezzlement, &c. are not to be acquitted if the offence tur

ge, &c. of rnalist.	Where triable.	As to Bail.	Punishment.	If Costs of Prosecution allowed.
a. 487, p. 501.	Sessions.	Compulsory; Discretionary if a riot.	Punishable as for assault and riot [*See* R. *v.* Billingham, 2 *C. & P.* 234; R. *v.* Perkins, 4 *C. & P.* 537; R. *v.* Murphy, 6 *C. & P.* 103].	Yes, for riot.
..	..	..	[*See Offences* 230, *tit.* "Forgery."]	
..	Sessions (*Note* 105).	Discretionary.	Pen. serv. 14—5 yrs.; —*or* impr. not exc. 2 yrs., with *or* without h. l. and s. c. (s. 69).	Yes.
..	Id.	Id.	Pen. serv. 14—5 yrs.; —*or* impr. not exc. 2 yrs., with or without h. l. (s. 70). [*See Notes* 104, 105, *for the enactments as to the Indictment and Venue.*	Yes.
..	Sessions.	Compulsory.	Impr. not exc. 2 yrs., with *or* without h. l.	Yes.
..	Id.	Discretionary.	Pen. serv. not exc. 7 yrs.; *or* impr. not exc. 2 yrs., with *or* without h. l. [MEM. *Section* 12 *incorporates the following sections of* "*The Larceny Act*, 1861," *namely, ss.* 98 *to* 100; 103; 107 *to* 113; 115 *to* 121.]	Yes.

larceny (s. 72). See these enactments referred to more fully, and the cases on the l law of embezzlement, *Note* 49, p. 1070. The property is to be laid in the comnt and indictment in her Majesty (s. 70). As to laying the property in monies, eceived by an officer or clerk in the service of the Customs, see 30 & 31 Vict. a. 19.

Venue.] By 24 & 25 Vict. c. 96, s. 70, "every offender against this or the last ing section [*Offences* 446, 447] may be dealt with, indicted, tried and punished

OFFENCE.	Class of a Statute or
QUEEN.	
448. Discharging *or* aiming *or* striking *or* throwing, &c. fire-arms, explosive substance, &c. at *or* near to the person of the Queen, *or* attempting to do so, with intent to injure *or* alarm her *or* break the peace, &c.	M. 5 & 6 V s.
449. Producing *or* having gun, &c. near to the Queen, with intent to use the same, to injure *or* to alarm her.	Id
QUEEN'S STORES. *See titles* "Naval Stores," *and* "War Department Stores."	
RABBITS. *See tit.* "Game (Night Poaching)."	
RACING, Causing bodily harm by. *See tit.* "Drivers of Carriages."	
RAILWAYS (*Note* 106).	
450. Servants of company guilty of misconduct when employed [*punishable summarily also, vide Offences* 1—4, *tit.* "Railways," *Vol. I. p.* 720].	M. 3 & 4 Vi ss. 13, 14; 5 c. 55, s.
451. Or negligently doing, *or* omitting to do, any act whereby life shall or may be endangered, *or* trains impeded. [*Id.*]	M. Id
452. *Obstructing Engines, &c.*] Whosoever, by any unlawful act,—*or* by any wilful omission *or* neglect, shall obstruct *or* cause to be obstructed any engine *or* carriage using any railway,—*or* shall aid *or* assist therein. [*See* Reg. *v.* Hadfield, 39 *L. J.* (*N. S.*) *M. C.* 131; 22 *Law T., N. S.* 664; Reg. *v.* Hardy, 40 *L. J.* (*N. S.*) *M. C.* 62; 23 *Law T., N. S.* 785.]	M. 24 & 25 Vi s. 36.
453. Whosoever, by any unlawful act, *or* by any wilful omission *or* neglect, shall endanger *or* cause to be endangered the safety of any person conveyed *or* being in *or* upon a railway,—*or* shall aid *or* assist therein. [*See* Reg. *v.* Monaghan, 11 *Cox, C. C.* 608; Reg. *v.* Bradford, 29 *L. J.* (*N. S.*) *M. C.* 171; 1 *Bell, C. C.* 268.]	M. 24 & 25 Vict s. 34.
454. *Placing Wood, &c. on Railway.*] Whosoever shall unlawfully and maliciously put, place, cast, *or* throw * upon *or* across any railway any wood, stone, *or* other matter *or* thing,—*or* shall unlawfully and maliciously take up, remove, *or* displace any rail, sleeper, or other matter *or* thing belonging to any railway,—*or* shall unlawfully and maliciously turn, move, *or* divert any points *or* other machinery belonging to any railway,—*or* shall unlawfully and maliciously make *or* show, hide *or* remove, any signal *or* light upon *or* near to any railway,—*or* shall unlawfully and maliciously do *or* cause to be done any other matter *or* thing,*—with intent, in any of the cases aforesaid, to obstruct, upset, overthrow, injure, *or* destroy any engine, tender, carriage, *or* truck using such railway.	F. 24 & 25 Vict. s. 35.

either in the county *or* place in which he shall be apprehended *or* be in custody, which he shall have committed the offence."

106 "RAILWAYS:" *Apprehension of Offenders without Warrant.*] For offences n

Page, &c. of Recordist.	Where triable.	As to Bail.	Punishment.	If Costs of Prosecution allowed.
No. 465, p. 597.	Assizes.	Discretionary (11 & 12 Vict. c. 42, s. 23).	Pen. serv. 7—5 years; —*or* impr. not exc. 3 yrs., with h. l. and w.	Yes.
No. 466, p. 597.	Id.	Id.	The same. [*See tit.* "Treason."]	Yes.
No. 467, p. 597.	Sessions (s. 14).	Compulsory.	Impr. with *or* without h. l. for not exc. 2 yrs.	No.
No. 468, p. 597.	Id.	Id.	The same.	No.
No. 469, p. 598.	Sessions.	Discretionary.	Imprisonment not exceeding 2 years, with *or* without hard labour (s. 36).	Yes (s. 77).
No. 470, p. 598.	Id.	Id.	The same (s. 34).	Yes (s. 77).
No. 471, p. 598.	Assizes.	Id.	Pen. serv. life—5 years; —*or* impr. for not exc. 2 years, with *or* without h. l., and, if a male under 16, w. (s. 35).	Yes.

& 25 Vict. c. 97, see *Note* 90, *ante*, p. 1125 (s. 61). Under 24 & 25 Vict. c. 100, *Note* 1, *ante*, p. 1014.

OFFENCE.	Class of Statute or
RAILWAYS—*continued.*	
455. Whosoever shall unlawfully and maliciously put *or* throw upon [*as in Offence* 454, *between the asterisks* * *], with intent, in any of the cases aforesaid, to endanger the safety of any person travelling *or* being upon such railway.	F. 24 & 25 V s. 3
456. *Casting Stone, &c. upon Railway.*] Whosoever shall unlawfully and maliciously throw, *or* cause to fall *or* strike, at, against, into *or* upon any engine, tender, carriage *or* truck used upon any railway, any wood, stone *or* other matter *or* thing, with intent to injure *or* endanger the safety of any person being in *or* upon such engine, tender, carriage *or* truck, *or* in or upon any other engine, tender, carriage *or* truck of any train of which such first-mentioned engine, tender, carriage *or* truck shall form part. [*See further, Offences* 30, 33, 34, *tit.* "Arson"; *and for Injuries to Telegraphs, see Offence* 361.]	F. Id. s
457. *Accounts.*] Persons signing any statement, balance sheet, estimate, *or* report required by the act which is false in any particular to his knowledge.	M. 31 & 32 Vic s. 5.
458. *Smoking Compartments.*] Any railway company, except the Metropolitan, not, after 1st October, 1868, in every passenger train where there are more carriages than one of each class, providing smoking compartments for each class of passengers, unless exempted by the Board of Trade. [MEM. *No penalties being annexed to the default of* *	Id. s. 2
459. *Railway Statistics.*] Person signing any return to the Board of Trade, required by the act, which is false in any particular to his knowledge.	M. 34 & 35 Vict s. 10.
RAPE.	
460. Whosoever shall be convicted of the crime of rape [*i. e.* ravishing women against their will *or* consent, *or* children under the age of twelve years, with *or* against their will, by persons above the age of fourteen. See *Reg.* v. *Fletcher*, 1 Bell, C. C. 63; 28 L. J. (N. S.) M. C. 85, for definition of Rape; but see *Reg.* v. *Fletcher*, 35 L. J. (N. S.) M. C. 172; 14 Law T., N. S. 573; *Reg.* v. *Pressy*, 17 Law T., N. S. 295; *Reg.* v. *Barrow*, 19 Law T., N. S. 293; 38 L. J. (N. S.) M. C. 20; see *Reg.* v. *Barrett*, 43 L. J., M. C. 7, as to a rape upon an idiot girl].	F. Common I
REAL ESTATES.	
461. *Registration.*] Knowingly and with intent to deceive making material false statement, &c.—*or* suppressing *or* concealing from registrar material documents, &c. relating to land put upon the registry.	M. 25 & 26 Vict. s. 105.

108 "RECEIVERS:" *Apprehension of Offenders without Warrant—Search War Restitution of Property.*] *Note* 78, tit. "*Larceny*," p. 1106, is equally applicable h

109 *How Receivers may be indicted—Separate Receivers—Decisions—Evidence of m Stolen Property.*] A receiver may be indicted and convicted either as an accesso

Page, &c. of Burnaby.	Where triable.	As to Bail.	Punishment.	If Costs of Prosecution allowed.
No. 472, p. 598.	Assizes.	Discretionary.	Pen. serv. life—5 yrs.; —*or* impr. not exc. 2 yrs., with *or* without h. l., and, if a male under 16, w. (s. 35).	Yes.
No. 473, p. 598.	Id.	Id.	Pen. serv. life—5 yrs.; —*or* impr. not exc. 2 yrs., with *or* without h. l. (s. 33). [*See* Reg. *v.* Bradford, 29 *L. J.* (*N. S.*) *M. C.* 171; 1 *Bell, C. C.* 268.]	Yes.
..	Sessions.	Compulsory.	Fine and impr. (s. 5).	No.
..	Id.	Id.	* [*the direction of the statute, it is punishable by the common law. See tit.* "Disobedience," *Offence* 161.]	No.
..	Id.	Id.	Fine and impr. (s. 10). [*Also punishable summarily. See Offence* 34, *p.* 723, *Vol. I.*]	No.
No. 474, p. 599.	Assizes.	Discretionary.	Pen. serv. life—5 yrs.; —*or* impr. not exc. 2 yrs., with *or* without h. l. (24 & 25 Vict. c. 100, s. 48). [*See further, Offences* 53, 58, 70, *and title* "Carnally knowing Females."]	Yes.
..	Sessions.	Compulsory.	Impr., with *or* without h. l., not exc. 3 yrs., —*or* fine as court shall award (s. 105).	No.

fact,—or for a substantive felony, whether the principal felon shall or shall not have been previously convicted,—or shall or shall not be amenable to justice (sect. 91); and the same in the case of a misdemeanor (24 & 25 Vict. c. 96, s. 95). By sect. 92, in indictment for feloniously receiving, a count for feloniously stealing may be added,

OFFENCE.	Class of Offence and Statute or Authority.
REAL ESTATES—*continued.*	
462. Fraudulently procuring, &c. order of Court of Chancery in relation to registered land, *or* the entry on the register of any caveat, *or* notice of a charge, &c.	M. 25 & 26 Vict. c. 53, s. 138.
463, 464 } *Declaration of Title.*] Similar offences are enacted by the	25 & 26 Vict. c. 67, ss. 44, 45.
RECEIVERS (*Note* 108).	
465. *Where a Felony.*] Whosoever shall receive any chattel, money, valuable security, *or* other property whatsoever, the stealing, taking, extorting, obtaining, embezzling *or* otherwise disposing whereof shall amount to a felony, either at common law *or* by virtue of this act, knowing the same to have been feloniously stolen, taken, extorted, obtained, embezzled *or* disposed of (*Note* 109). [MEM. *A receiver of goods stolen by a partner who is liable to be convicted under* 31 & 32 *Vict. c.* 116, *s.* 1, *Offence* 325, *tit.* "Larceny," *is not punishable for this offence;* Reg. *v.* Smith, 39 *L. J.* (*N. S.*) *M. C.* 112; 22 *Law T., N. S.* 554.]	F. 24 & 25 Vict. c. 96, s. 91.
466. *Where a Misdemeanor.*] Whosoever shall receive any chattel, money, valuable security, *or* other property whatsoever, the stealing, taking, obtaining, converting, *or* disposing whereof is made a misdemeanor by this act, knowing the same to have been unlawfully stolen, taken, obtained, converted *or* disposed of (*Note* 109). [*See titles* "Agents," "False Pretences," "Fraudulent Trustees," "Larceny."]	M. Id. s. 95.
RECOGNIZANCE. Acknowledging in name of another. *See Offence* 414, *tit.* "Personation."	
RECORDS, Stealing, *see Offence* 304, *tit.* "Larceny;" forging, *Offence* 233, *tit.* "Forgery."	
REGISTERS (*Note* 111).	
467. Whosoever shall unlawfully destroy, deface, *or* injure, *or* cause *or* permit to be destroyed, defaced, *or* injured, any register of births, baptisms, marriages, deaths, *or* burials which now is *or* hereafter shall be by law authorized *or* required to be kept in England or Ireland, *or* any part of any such register, *or* any certified copy of any such register, *or* any part thereof,—*or* shall forge *or* fraudulently alter, in any such register any entry relating to any birth, baptism, marriage, death, *or* burial, *or* any part of any such register, *or* any certified copy of such register, *or* of any part thereof,—*or* shall*	F. 24 & 25 Vict. c. 98, s. 36. [**See p.* 1164.]

and the jury may find the person guilty of either; and by sect. 93, separate receivers may be included in the same indictment in the absence of the principal (and see 24 & 25 Vict. c. 94, s. 6, in *Note* 4, *ante*, p. 1018);—and on an indictment for jointly receiving, persons may be convicted of separately receiving (sect. 94; *Reg.* v. *Reardon and Bloor*, 35 L. J. (N. S.) M. C. 171; 14 Law T., N. S. 449). See the following cases upon guilty knowledge, &c., *Reg.* v. *Woodward*, 31 L. J. (N. S.) M. C. 91; 1 Leigh & Cave, C. C. 122; *Reg.* v. *Robinson*, 26 J. P. 183; *Reg.* v. *Deer*, 32 L. J. (N. S.) M. C. 33; 1 Leigh & Cave, C. C. 240; *Reg.* v. *M'Athey*, 32 L. J. (N. S.) M. C. 35; 1 Leigh &

Page, &c. of Pamphlet.	Where triable.	As to Bail.	Punishment.	If Costs of Prosecution allowed.
..	Sessions.	Compulsory.	Impr., with *or* without h. l., not exc. 3 yrs., —*or* fine as court shall think just (s. 139).	No.
..	..	..	[The same punishment as for Offences 461, 462.]	No.
No. 475, p. 599.	Assizes *or* Sessions (*Note* 110).	Discretionary.	Pen. serv. 14—5 yrs.; —*or* impr. not exc. 2 yrs., with *or* without h. l., s. c., and, if a male under 16, w. (s. 16). [*See titles* "Cattle," "Embezzlement," "Larceny," *&c.*]	Yes.
No. 476, p. 599.	Id.	Id.	Pen. serv. 7—5 yrs.;—*or* impr. not exc. 2 yrs., with *or* without h. l., s. c., and, if a male under 16, w. (s. 95).	Yes (s. 121).
Nos. 477—484, pp. 599, 600.	Assizes, where the offence is committed, *or* where the offender is apprehended *or* is in custody (24 & 25 Vict. c. 98, s. 41, *ante*, p. 1087, *Note* 63).	Discretionary.	Pen. serv. life—5 yrs.: —*or* impr. not exc. 2 yrs., with *or* without h. l. and s. c. (s. 36). [*See over.*]	Yes.

C. C. 256; *Reg.* v. *Schmidt*, 35 L. J. (N. S.) M. C. 94; 13 Law T., N. S. 679; the case of *Reg.* v. *Langmead*, in *Note* 78, *ante*, p. 1106. As to evidence in cases of ving stolen property, the "Prevention of Crimes Act, 1871," 34 & 35 Vict. c. 112, came into operation on 2nd November, 1871), s. 19, provides as follows:—ere proceedings are taken against any person for having received goods knowing to be stolen, or for having in his possession stolen property, evidence may be at any stage of the proceedings that there was found in the possession of such other property stolen within the preceding period of twelve months, and such

OFFENCE.	Class of ar Statute or
REGISTERS—*continued.*	
467 *contd.* knowingly and unlawfully insert *or* cause *or* permit to be inserted in any such register, *or* in any certified copy thereof, any false entry of any matter relating to any birth, baptism, marriage, death *or* burial,—*or* shall knowingly and unlawfully give any false certificate relating to any birth, baptism, marriage, death *or* burial, —*or* shall certify any writing to be a copy *or* extract from any such register, knowing such writing, *or* the part of such register whereof such copy *or* extract shall be so given, to be false in any material particular,—*or* shall forge *or* counterfeit the seal of *or* belonging to any register office *or* burial board, *or* shall offer, utter, dispose of, *or* put off any such register, entry, certified copy, certificate, *or* seal, knowing the same to be false, forged *or* altered,—*or* shall offer, utter, dispose of, *or* put off any copy of any entry in any such register, knowing such entry to be false, forged *or* altered.	F. 24 & 25 s. 3
468. Whosoever shall knowingly and wilfully insert *or* cause *or* permit to be inserted in any copy of any register directed *or* required by law to be transmitted to any registrar *or* other officer any false entry of any matter relating to any baptism, marriage *or* burial,—*or* shall forge *or* alter, *or* shall offer, utter, dispose of, *or* put off, knowing the same to be forged *or* altered, any copy of any register so directed *or* required to be transmitted as aforesaid,—*or* shall knowingly and wilfully sign *or* verify any copy of any register so directed *or* required to be transmitted as aforesaid, which copy shall be false in any part thereof, knowing the same to be false,—*or* shall unlawfully destroy, deface, *or* injure, *or* shall for any fraudulent purpose take from its place of deposit, *or* conceal, any such copy of any register.	Id.
REGISTRATION AND MARRIAGE ACTS (*Note* 112).	
469. Making false declaration *or* signing false notice as to marriage,—*or* falsely forbidding the issue of superintendent registrar's certificate.	M. 6 & 7 Will. s. 38; 7 Will. Vict. c. 22; 3 & c. 72, s. 4; 19 & c. 119, ss. 2,
470. Making false statement for insertion in register of birth, death *or* marriage.	M. 6 & 7 Will. s. 41.
471. Solemnizing marriage without licence *or* in unregistered building, &c. &c. (see the section).	F. 6 & 7 Will. s. 39.

evidence may be taken into consideration for the purpose of proving that such
knew the property to be stolen which forms the subject of the proceedings taken
him. Where proceedings are taken against any person for having received
knowing them to be stolen, or for having in his possession stolen property, and
has been given that the stolen property has been found in his possession, then
person has within five years immediately preceding been convicted of any
involving fraud or dishonesty, evidence of such previous conviction may be given
stage of the proceedings, and may be taken into consideration for the purpose of
that the person accused knew the property which was proved to be in his possession
have been stolen;—provided that not less than seven days' notice in writing shall

Page, &c. of Formalist.	Where triable.	As to Bail.	Punishment.	If Costs of Prosecution allowed.
Nos. 477—484, pp. 599, 600.	Assizes, where the offence is committed, *or* where the offender is apprehended *or* is in custody (24 & 25 Vict. c. 98, s. 41, *ante*, p. 1087, *Note* 63).	Discretionary.	[*See preceding page for punishment.*] [*As to the wilful injury or forgery of non-parochial registers deposited with the registrar-general, by virtue of* 3 & 4 *Vict. c.* 92, *see s.* 8 *of that act. As to registers kept under the Burial and Cemeteries Act, see* 20 & 21 *Vict. c.* 81, *s.* 15; *also* 27 & 28 *Vict. c.* 97.]	Yes.
No. 485, p. 600.	Id.	Id.	Pen serv. life—5 yrs.; —*or* impr. not exc. 2 yrs., with *or* without h. l. and s. c. (s. 37).	Yes.
..	Assizes.	Compulsory.	Suffer the penalties of perjury. [*See tit.* "Perjury," *Offence* 407.]	No.
..	Id.	Id.	The same.	No.
..	Sessions.	Discretionary.	Pen. serv. 7—5 yrs.;—*or* impr. not exc. 2 yrs., h. l., s. c. and w.	Yes.

given to the person accused that proof is intended to be given of such previous con-
n:—and it shall not be necessary for the purposes of this section to charge in the
ment the previous conviction of the person so accused."

Where Receivers triable.] By 24 & 25 Vict. c. 96, s. 96, a receiver charged with
y or a misdemeanor may be dealt with, indicted, tried, and punished in any county
ce in which he shall have or shall have had any such property in his possession, or
y county or place in which the party guilty of the principal felony or misdemeanor
by law be tried, in the same manner as such receiver may be dealt with, indicted,
and punished in the county or place where he actually received such property;—
by sect. 114, if any person shall receive or have any chattel, money, valuable security

OFFENCE.	Class of an Statute or
REGISTRATION AND MARRIAGE ACTS—*continued.*	
472. Superintendent registrar unduly issuing licence for *or* solemnizing marriage declared void. [*See titles* "Marriages" *and* "Registers."	F. 7 Will. 4 c. 22,
RESCUE. *See titles* "Escape, Prison Breach and Rescue," *and* "Poundbreach."	
RESERVOIRS, Destroying works of. *See Offences* 356, 357, *tit.* "Malicious Injuries."	
REVOLT AT SEA. *See tit.* "Piracy," *and Note* 101.	
REWARDS (*Note* 113).	
473. Whosoever shall corruptly take any money *or* reward, directly *or* indirectly, under pretence *or* upon account of helping any person to any chattel, money, valuable security, *or* other property whatsoever which shall by any felony *or* misdemeanor have been stolen, taken, obtained, extorted, embezzled, converted, *or* disposed of, as in this act before mentioned (unless he shall have used all due diligence to cause the offender to be brought to trial for the same).	F. 24 & 25 V s. 10
RIOTS.	
474. A tumultuous disturbance of the peace by three or more persons, and who are guilty of actual violence, is a riot (*Note* 115).	M. Commo
475. Opposing the making of proclamation, whether made or not (s. 5),—*or* twelve or more persons remaining one hour after proclamation made (s. 1). [*Vide Chap. II. of Part III., tit.* "Riots," *for Form of Proclamation.*]	F. 1 Geo. 1, s (*Note* 11

or other property whatsoever, stolen or taken in any other part of the United K he may be dealt with, &c. for such offence in that part where he so received or property, as if stolen in that part. Possession of the property by an age receiver or by the Post Office authorities or by a railway company will be suffi *Reg.* v. *Jones*, 1 Den. C. C. 551; 19 L. J. (N. S.) M. C. 162; *Reg.* v. *Wiley*, 2 D 37; 20 L. J. (N. S.) M. C. 4; *Reg.* v. *Smith*, 1 Dears. C. C. 494; 24 L. J. (N C. 135; *Reg.* v. *Cryer*, 1 Dears. & B., C. C. 324; 26 L. J. (N. S.) M. C. 192; *Rogers and others*, 37 L. J. (N. S.) M. C. 83).

111 "Registers:" *Form of Indictment—Intent to defraud—Search Warrant f Instruments.*] The *Notes* 61, 62, *ante*, pp. 1085, 1087, hereon under tit. "*Forg* equally applicable to these offences.

112 "Registration and Marriage Acts:" *Time of Prosecution.*] By 6 & 7 c. 85, s. 41, "every prosecution *under this act* shall be commenced within the three years after the offence committed." This appears to be applicable to offences under 6 & 7 Will. 4, c. 86, as well as c. 85, because sect. 44 of c. 85 incorporate the two acts together, for it enacts, that it "shall be taken to be pa 6 & 7 Will. 4, c. 86, as fully and effectually as if incorporated therewith."

113 Rewards:" *Apprehension of Offenders without Warrant.*] See *Note* 78, 1106, applicable to this title.

114 *Advertising Reward—Action against Printer or Publisher of a Newspaper.*] publicly advertising a reward for the return of stolen or lost property on cert ditions as to not asking questions, or returning money lent on it, &c. &c., for sum of £50 to any person who will sue for the same by action of debt (24 &

	Page, &c. of Formulist.	Where triable.	As to Bail.	Punishment.	If Costs of Prosecution allowed.
472	..	Sessions.	Discretionary.	Pen. serv. 7—5 yrs.;—*or* impr. not exc. 2 yrs., h. l., s. c. and w.	Yes.
473	No. 486, p. 601.	Sessions.	Discretionary.	Pen. serv. 7—5 years;—*or* impr. not exc. 2 yrs., with *or* without h. l., s. c., and, if a male under 18, w. (s. 101). [*See* Reg. *v.* Pascoe, 18 *L. J.* (*N. S.*) *M. C.* 186; 1 *Den. C. C.* 456; *and Note* 114.]	Yes.
474	Nos. 487, 488, p. 601.	Sessions.	Discretionary.	Fine, *or* impr. (with h. l., 3 Geo. 4, c. 114), *or* both.	Yes (14 & 15 Vict. c. 55, s. 1).
475	Nos. 489—491, pp. 601, 602.	Assizes.	Id.	Pen. serv. life—15 yrs.; *or* impr. not exc. 3 yrs. (7 Will. 4 & 1 Vict. c. 91, ss. 1, 2).	Yes.

c. 96, s. 102). By 33 & 34 Vict. c. 65, s. 3, every action against the printer or publisher of a newspaper to recover this forfeiture "shall be brought within six months after the forfeiture is incurred,—and no such action against the printer or publisher of a newspaper shall be brought unless the assent in writing of her Majesty's Attorney-General or Solicitor-General for England, if the action is brought in England, or for Ireland, if the action is brought in Ireland, has been first obtained to the bringing of such action."

115 "RIOTS:" *What is a Rout or an unlawful Assembly.*] A rout is where the parties endeavour to commit an act which would make them rioters. As to what constitutes an unlawful assembly, and what is the liability of parties joining it, the following answers by judges of unquestionable authority may be found useful:—An assembly of great numbers of persons, which, from its general appearance and accompanying circumstances is calculated to excite terror, alarm, and consternation, is generally criminal and unlawful (*per* Bayley, J., on the trial of Hunt, York Spring Assizes, 1820). All persons who form an assembly of this kind, disregarding its probable effect and the alarm and consternation that are likely to ensue, and all who give countenance and support to it, are criminal parties (*per* Holroyd, J., Lancaster Spring Assizes, 1822). See 1 Russ. on Cr. 4th ed. p. 378.

116 *Time of Prosecution for Offence* 475.] The prosecution for the Offence 475, under 1 Geo. 1, st. 2, c. 5, must be commenced within twelve calendar months (s. 8).

117 *Apprehension of Offenders for Offences* 476, 477, *without Warrant.*] See *Note* 90, *ante*, p. 1125, applicable to this title.

118 "SACRILEGE:" *Apprehension of Offenders without Warrant.*] *Note* 78, *ante*, p. 1106, applicable to this title also.

OFFENCE.	Class of an Statute or
RIOTS—*continued.*	
476. *Riotously demolishing Buildings, &c.*] If any persons riotously and tumultuously assemble together to the disturbance of the public peace shall unlawfully and with force demolish, *or* pull down *or* destroy, *or* begin to demolish, pull down *or* destroy any church, chapel, meeting-house *or* other place of divine worship,—*or* any house, stable, coach-house, outhouse, warehouse, office, shop, mill, malthouse, hop-oast, barn, granary, shed, hovel, *or* fold,—*or* any building *or* erection used in farming land,—*or* in carrying on any trade *or* manufacture *or* any branch thereof,—*or* any building other than such as are in this section before mentioned, belonging to the Queen, *or* to any county, riding, division, city, borough, poor law union, parish *or* place, *or* belonging to any university *or* college *or* hall of any university, *or* to any inn of court, *or* devoted *or* dedicated to public use *or* ornament, *or* erected *or* maintained by public subscription *or* contribution,—*or* any machinery, whether fixed *or* moveable, prepared for *or* employed in any manufacture *or* in any branch thereof,—*or* any steam engine *or* other engine for sinking, working, ventilating *or* draining any mine, *or* any staith, building, *or* erection used in conducting the business of any mine, *or* any bridge, waggonway *or* trunk for conveying minerals from any mine.	F. 24 & 25 V s. 11 (*No*
477. *Rioters injuring Buildings, &c.*] If any persons, riotously and tumultuously assembled together to the disturbance of the public peace, shall unlawfully and with force injure *or* damage any such church, chapel, meeting-house, place of divine worship, house, stable, coach-house, outhouse, warehouse, office, shop, mill, malthouse, hop-oast, barn, granary, shed, hovel, fold, building, erection, machinery, engine, staith, bridge, waggonway *or* trunk, as in the last preceding section mentioned [*Offence* 476].	M. Id. s.
RIVERS, Destroying works of. *See Offences* 356, 357, *tit.* "Malicious Injuries."	
ROBBERY. *See Offences* 312, 313, *tit.* "Larceny."	
SACRILEGE (*Note* 118).	
478. Whosoever shall break and enter any church, chapel, meeting-house, *or* other place of divine worship, and commit any felony therein,—*or* being in any church, chapel, meeting-house, *or* other place of divine worship, shall commit any felony therein and break out of the same.	F. 24 & 25 Vict s. 50.
SAVINGS BANKS.	
479. Any bank, association, *or* company, *or* any other person than a savings bank established under the acts, using *or* adopting the title "Savings Bank certified under the Act of 1863."	M. 26 & 27 Vict. s. 5.
480. Actuary, cashier, secretary, officer, *or* other person in a savings bank receiving deposits, not duly paying over *or* accounting for same to trustees *or* managers, &c.	F. Id. s. 9.

Page, &c. of Formalist.	Where triable.	As to Bail.	Punishment.	If Costs of Prosecution allowed.
No. 492, p. 602.	Assizes.	Discretionary.	Pen. serv. life—5 yrs.; —*or* impr. not exc. 2 yrs., with *or* without h. l. and s. c. (s. 11). [MEM. *If upon the trial of the accused for this felony the jury are not satisfied that he is guilty thereof, but that he is guilty of the misdemeanor in section* 12, *Offence* 477, *infra, the jury may find him guilty thereof, and he may be punished accordingly* (s. 12).]	Yes.
No. 493, p. 602.	Sessions. [*Query, If the offence can be treated as an "unlawful combination," it is triable at the assizes only; see* 5 & 6 *Vict. c.* 38, *ante, p.* 973.]	Id.	Pen. serv. 7—5 yrs.;—*or* impr. not exc. 2 yrs., with *or* without h. l. (s. 12). [*See* MEM. *to Offence* 476, *supra.*]	Yes (s. 77).
Nos. 494, 495, p. 603.	Assizes.	Discretionary.	Pen. serv. life—5 yrs.; —*or* impr. not exc. 2 yrs., h. l. and s. c. (s. 50).	Yes.
..	Sessions.	Compulsory.	Fine, *or* impr. *or* both.	No.
..	Id.	Id.	The same.	No.

OFFENCE.	Class of C and Statute or A
SCIENCE, Destroying any work of. *See Offence* 362, *tit.* "Malicious Injuries."	
SEA, OFFENCES AT. *See* [*Note* 119.]	
SEABANK, Breaking down, &c. *See Offences* 356, 357, *tit.* "Malicious Injuries."	
SEAMEN. Seamen, keelmen, &c., riotously preventing ship being loaded.	[33 Geo. 3, ss. 1, 3
SEDITION. *See titles* "Arms," "Combinations," "Libel," "Oaths (Unlawful)," *and* "Treason."	
SERVANTS (*Note* 120).	
481. Whosoever, being legally liable, either as a master *or* mistress, to provide for any apprentice *or* servant, necessary food, clothing, *or* lodging, shall wilfully and without lawful excuse refuse *or* neglect to provide the same,	M. 24 & 25 Vic s. 26.
or	
482. Shall unlawfully and maliciously do *or* cause to be done any bodily harm to any such apprentice *or* servant, so that the life of such apprentice *or* servant shall be endangered, *or* the health of such apprentice *or* servant shall have been *or* shall be likely to be permanently injured.	
SHARES IN BANKS. *See tit.* "Banking Shares."	
SHEEP STEALING. *See tit.* "Cattle."	
SHIPS. *See tits.* "Arson," *Offences* 40—42; "Assaults," *Offences* 45—51; "Attempts to Murder," *Offence* 67; Stealing from, *tit.* "Larceny," *Offences* 320, 321; "Gunpowder," *Offence* 274, and "Malicious Injuries," *Offences* 364—367.	
SHOP BREAKING. *See* "House-breaking."	
SIMPLE LARCENY. *See Offence* 288, *tit.* "Larceny."	
SMUGGLING (*Note* 121).	
483. Making signals to smuggling vessels after sunset and before sunrise, between 21st September and 1st April,—*or* after 8 P.M. and before 6 A.M. at any other parts of the year.	M. 16 & 17 Vict. s. 244.
484. Armed assemblies to the number of three or more for smuggling,—*or* persons assisting therein.	F. Id. s. 248.
485. Shooting at boats, &c., within one hundred leagues,—*or* wounding officers, &c., of the navy.	F. Id. s. 249.

119 "SEA, OFFENCES AT:" *Jurisdiction over Offences at Sea.*] It will be seen pp. 903, 904, what is the jurisdiction of the Admiralty, and the authority of justi grant a warrant for the apprehension of offenders within their jurisdiction who committed offences at sea as well as to the trial of British subjects and foreigner for those offences, and that by 17 & 18 Vict. c. 104, ss. 268—271, depositions t

Page, &c. of Paramlist.	Where triable.	As to Bail.	Punishment.	If Costs of Prosecution allowed.
..	..	..	[*Other Offences, see tit.* "Merchant Shipping."]	
See Nos. 496, 497, p. 603.	Sessions.	Discretionary.	Pen. serv. 5 yrs.;—*or* impr. not exc. 2 yrs., with *or* without h. l. (s. 26). [*See Note* 120 *as to prosecution for these Offences by the parish officers.*]	Yes (s. 77).
No. 499, p. 604.	Sessions (R. *v.* Cock, 4 *M. & Sel.* 71).	Compulsory.	Fine £100;—*or* impr. with h. l. not exc. 1 yr. (s. 244).	No.
Nos. 500, 501, p. 604.	Assizes.	Discretionary.	Pen. serv. life—15 yrs.;—*or* impr. not exc. 3 yrs., h. l. and s. c. (s. 248).	Yes.
Nos. 502, 503, p. 604.	Id.	Id.	The same (s. 249).	Yes.

a court or consular officer abroad may be received in evidence here if the witnesses not be produced. See further, title "*Piracy,*" *ante*, p. 1150.

120 "SERVANTS:" *Directing Prosecution for Assaults, &c. on Servants.*] By 24 & 25 ict. c. 100, s. 73, justices may direct the guardians or overseers to conduct the prosecution in these cases, as well as where bodily injury is inflicted on any person under 16,

OFFENCE.	Class of and Statute or A
SMUGGLING—*continued.*	
486. In company with more than four others with smuggled goods,—*or* with one other person with goods, and armed *or* disguised.	F. 16 & 17 Vi s. 25
487. Assaulting or opposing officers on duty.	M. Id. s.
488. The like, while searching for goods. [*See further, tit.* "Excise."]	M. 7 & 8 Geo. ss. 40,
SODOMY.	
489. Whosoever shall be convicted of the abominable crime of buggery, committed either with mankind, *or* with any animal. [*See Note* 28, *ante, p.* 1048, *for definition of carnal knowledge.*]	F. Common
490. Whosoever shall attempt to commit the said abominable crime,	M. 24 & 25 Vict s. 62.
or	
491. Shall be guilty of any assault with intent to commit the same,—*or* of any indecent assault upon any male person (*Note* 122).	
SOLICITING TO THE COMMISSION OF OFFENCES.	
492. A felony *or* misdemeanor, not afterwards committed. [*See* Reg. *v.* Gregory, 36 *L. J.* (*N. S.*) *M. C.* 60. *If committed, the offender would be a principal.*] [*To commit murder. See tit.* "Murder," *Offence* 394.]	M. Common I
SOLICITORS. *See tit.* "Vendors."	
SPRING GUNS AND MAN TRAPS.	
493. Whosoever shall set *or* place,—*or* cause to be set *or* placed,—any spring gun, man trap, *or* other engine calculated to destroy human life *or* inflict grievous bodily harm, with the intent that the same *or* whereby the same may destroy *or* inflict grievous bodily harm upon a trespasser *or* other person coming in contact therewith. [MEM. *A person permitting such gun, &c., set in place being in, or afterwards coming into, his possession to continue to set, &c., is to be deemed to have set and placed it* (s. 31).]	M. 24 & 25 Vict. c s. 31.
STAGE COACHES, Drivers of, causing injury. [*See tit.* "Drivers of Carriages."]	

and bind over a person to do so. See the section *ante*, pp. 965, 966. *Vide* For Justices' Certificate, Oke's "*Formulist*," 6th ed. No. 498, p. 603.

121 "SMUGGLING:" *Venue.*] Offences on the high seas are to be deemed to been committed at the place into which the offender is brought, or in which he is fo (16 & 17 Vict. c. 107, s. 275). Indictments to be preferred by order of commissio

Page, &c. of Formalist.	Where triable.	As to Bail.	Punishment.	If Costs of Prosecution allowed.
Nos. 504, 505, pp. 604, 605.	Sessions.	Discretionary.	Pen. serv. 7—5 years (s. 250).	Yes.
No. 506, p. 605.	Id.	Compulsory.	Pen. serv. 7—5 yrs.;—*or* impr. not exc. 3 yrs., with h. l. (s. 251).	No.
No. 507, p. 605.	Id.	Id.	Impr. and h. l. for not exc. 3 years, in addition to *or* in lieu of other pun. *or* pen.	No.
Nos. 508, 509, p. 605.	Assizes.	Discretionary.	Pen. serv. life—10 yrs. (24 & 25 Vict. c. 100, s. 61).	Yes.
Nos. 510—512 pp. 605, 606.	Sessions.	Id.	Pen. serv. 10—5 yrs.;—*or* impr. not exc. 2 yrs., and h. l. (s. 62). [*See titles* "Accusing of Crime," *and* "Letter (Threatening)."]	Yes (s. 77; see *Note* 16, *ante*, p. 1030).
No. 513, p. 606.	Sessions.	Compulsory.	Fine, *or* impr., *or* both. [*Arch. Cr. Pl. by Bruce, 16th ed. p.* 886.]	No.
No. 614, p. 606.	Sessions.	Discretionary.	Pen. serv. 5 yrs.;—*or* impr. not exc. 2 yrs., with *or* without h. l. (s. 31). [MEM. *It is not unlawful to set these guns, &c., in a dwelling-house from sunset to sunrise, or gins for vermin* (s. 31).]	Yes (s. 77).

tions (s. 301), and within three years after the offence committed (s. 303), and be tried in any county (s. 304).

"SODOMY:" *Enactment as to Indecent Assaults.*] By the Vexatious Indictments 22 & 23 Vict. c. 17, s. 1, *ante*, p. 876, an indictment cannot be preferred for "*any* ent assault" without a previous inquiry before a justice or the order of a judge, &c.

OFFENCE.	Class of ar Statute or .
STAMPS.	
494. *Local Stamps.*] Forgeries and frauds under "The Local Stamp Act, 1869," enabling local authorities to collect fines and fees by means of stamps. [See these offences set out in *Note* 123.]	F. 32 & 33 s.
495. *Offences relating to Government Stamps.*] Any person who does, *or* causes *or* procures to be done, *or* knowingly aids, abets, *or* assists in doing any of the acts in relation to stamps. [See these acts and sect. 22, set out in *Note* 124.] [*See further, Offence* 251, *tit.* "Forgery."] [MEM. *See sect.* 19 *of the Act, in Chap. II. of Part III. tit.* "Stamps," *as to issue of a search warrant for the detection of forged dies, &c.*]	F. 33 & 34 s. 1
STATUTE. Disobedience of a statute when no penalty or punishment annexed, *see tit.* "Disobedience."	
STOCKING-FRAMES.	
496. Selling *or* disposing of hired stocking-frame, &c.;—*or* receiving *or* purchasing same.	M. 28 Geo. ss. 2,

123 "STAMPS:" *Offences under the Local Stamp Act*, 1869.] The sect. 8 de following offences,—

"(1). Forges *or* counterfeits, *or* causes *or* procures to be forged *or* counterf stamp *or* die, *or* any part of any stamp *or* die, provided, made, *or* use suance of this act; or,

(2.) Forges *or* counterfeits, *or* causes *or* procures to be forged *or* counterf impression, *or* any part of the impression, of any such stamp *or* die said upon any document; or,

(3.) With intent to defraud the local authority, stamps *or* marks, *or* cause cures to be stamped *or* marked, any document with any such forged *or* feited stamp *or* die;

(4.) Sells *or* exposes for sale any document having thereupon the impressio such forged *or* counterfeited stamp *or* die, *or* part of any such stamp any such forged *or* counterfeited impression, *or* part of an impression, the same to be forged *or* counterfeited; or,

(5.) Fraudulently cuts *or* gets off, *or* causes *or* procures to be cut *or* got off, pression of any such stamp *or* die from any document, with intent t same for any other document; or

(6.) Knowingly and without lawful excuse (the proof whereof lies on th accused) has in his possession any false, forged, *or* counterfeited die, other instrument, *or* part of any such die, plate, *or* instrument, resem intended to resemble, either wholly *or* in part, any stamp *or* die which time whatever has been *or* may be provided, made, *or* used by *or* u direction of the local authority for the purposes of this act; or,

(7.) Knowingly and without lawful excuse (the proof whereof lies on the accused) has in his possession any vellum, parchment, *or* paper having the impression of any such false, forged, *or* counterfeit stamp *or* die, *or* thereon any false, forged, *or* counterfeit stamp, mark, *or* impression rese *or* representing, either wholly *or* in part, *or* intended *or* liable to pass *or* taken for any such stamp *or* die;

(8.) With intent to defraud the local authority, forges *or* alters, *or* offers, disposes of, *or* puts off, knowing the same to be forged or altered, any cer

Page, &c. of Formulist.	Where triable.	As to Bail.	Punishment.	If Costs of Prosecution allowed.
..	Sessions.	Discretionary.	Pen. serv. for any term not less than 5 yrs., —*or* impr. not exc. 2 yrs. (s. 8).	Yes.
..	Assizes.	Id.	Pen. serv. life—5 yrs.; —*or* impr. not exc. 3 yrs. (s. 18).	Yes.
Nos. 515, 16, p. 606.	Sessions.	Compulsory.	Impr. not less than 3 nor exc. 12 m. and s. c.	No.

of a justice of the peace under this act, *or* any signature to any certificate purporting to be signed by a justice of the peace under this act;

any person knowingly and wilfully aiding and abetting any person in committing the offence."

Offences relating to Government Stamps—Possession of forged Stamps, &c. by licensed

The sect. 18 describes the following acts,—

Forging a die *or* stamp;

Using an impression upon any material with a forged die;

Fraudulently cutting, tearing, *or* in any way removing from any material any stamp, with the intent that any use should be made of such stamp *or* of any part thereof;

Fraudulently mutilating any stamp, with intent that any use should be made of any part of such stamp;

Fraudulently fixing *or* placing upon any material *or* upon any stamp, any stamp *or* part of a stamp which, whether fraudulently *or* not, has been cut, torn, *or* in any way removed from any other material, *or* out of *or* from any other stamp;

Fraudulently erasing *or* otherwise either really *or* apparently removing from any stamped material any name, sum, date, *or* other matter *or* thing whatsoever thereon written, with the intent that any use should be made of the stamp upon such material;

Knowingly selling *or* exposing for sale *or* uttering *or* using any forged stamp;

Knowingly, and without lawful excuse (the proof of which lawful excuse lies on the person accused) having in possession any forged die *or* stamp, *or* any stamp *or* part of a stamp which has been fraudulently cut, torn, *or* otherwise removed from any material, *or* any stamp which has been fraudulently mutilated, *or* any stamped material out of which any name, sum, date, *or* other matter *or* thing has been fraudulently erased *or* otherwise either really or apparently removed."

Sect. 22, "If any forged stamps are found in the possession of any person applied to sell and distribute stamps, *or* being *or* having been licensed to deal in stamps, person shall be deemed and taken, unless the contrary is satisfactorily proved, to

OFFENCE.	Class of a Statute or
STORES. *See titles* "Naval Stores" *and* "War Department Stores."	
STRANGLE OR SUFFOCATE, Attempting to. *See Offences* 48, 68, *titles* "Assaults" *and* "Attempts to Murder."	
SUBSEQUENT FELONY.	
497. Any person convicted of any felony, not punishable with death [not being simple larceny, 24 & 25 Vict. c. 96, s. 7, *Offence* 290, *ante*, p. 1110], committed after a previous conviction for felony [either on indictment, *or* under the Criminal Justice Act (*Note* 125)].	F. 7 & 8 Ge s. 1
SUICIDE.	
498. Attempting to commit suicide—[*i. e.* being an attempt to commit a felony, and not an attempt to murder, suicide not being murder, *Reg.* v. *Burgess*, 32 L. J. (N. S.) M. C. 55; 1 Russ. on Crimes, 4th ed. p. 971].	M. Comm
499. **TAMPERING WITH A WITNESS** [1 *Hawk. c.* 85, *s.* 7].	M. Comm
TELEGRAPHS.	
500. *Disclosing Messages, &c.*] Any person having official duties connected with the post office, *or* acting on behalf of the postmaster general, contrary to his duty, disclosing *or* in any way making known *or* intercepting the contents *or* any part of the contents of any telegraphic messages *or* any message intrusted to the postmaster general for the purpose of transmission. [*Cutting wires, &c. of, see Offence* 361, *tit.* "Malicious Injuries."]	M. 31 & 32 Vi s. 20.
TENANT, Stealing fixtures by. *See Offence* 323, *tit.* "Larceny;" damaging house, &c., *see Offence* 346, *tit.* "Malicious Injuries."	
THREATS, to accuse of crime. *See titles* "Accusing of Crime," "Letter (Threatening)," *and* "Sodomy."	

have had the same in his possession knowing them to be forged, and with intent use, or utter them,—and shall be liable to all penalties and punishments im inflicted by law upon persons selling, using, uttering, *or* having in possession stamps knowing the same to be forged." [See also sect. 23, in Chap. II. *of P* tit. "*Stamps*," as to the issue of a search warrant to seize stamps.]

125 "SUBSEQUENT FELONY:" *Jurisdiction of Sessions—Indictment—Effect of Justice Act upon subsequent Felonies.*] It will be observed by the statute 5 & 6 38, s. 1 (*ante*, p. 973), that, although in every other class of offence punish transportation for life it takes away the jurisdiction of the quarter sessions, it co the power to award the punishment of transportation [now *penal servitude*, 20 & c. 3, s. 2, *ante*, p. 1005] *for life*, for a subsequent felony. The punishment for larceny only, after a previous conviction for felony, is not so severe as in this will be seen by Offence 290, *ante*, p. 1110, yet the "offences made punisha simple larceny," Nos. 298, 301, 305 to 309, when either of them is the sub felony, are punishable in the higher degree. The 27 & 28 Vict. c. 47, s. 2, *ante*, provides, that the least sentence of penal servitude that can be awarded for a sub felony is a period of seven years. The course of proceeding on an indictment ch

...ge, &c. of ...nalist.	Where triable.	As to Bail.	Punishment.	If Costs of Prosecution allowed.
...o. 517, ...607.	Sessions (5 & 6 Vict. c. 38. *See Note* 125).	Discretionary.	Pen. serv. life—7 yrs.; —*or* impr. not exc. 4 yrs., h. l., s. c. and w. (20 & 21 Vict. c. 3, s. 2, *Note* 125, and 27 & 28 Vict. c. 47, s. 2).	Yes.
Nos. ...18—520, p. 607.	Sessions. [*Reg.* v. *Burgess.*]	Discretionary.	Fine, *or* impr. [with h. l., 3 Geo. 4, c. 114], *or* both.	Yes (see *ante*, p. 983).
..	Sessions.	Compulsory.	Fine, *or* impr., *or* both.	No.
..	Sessions.	Compulsory.	Impr. for a term not exc. 12 cal. m. (s. 20). [MEM. *Property in telegraphic messages is to be laid in postmaster general* (s. 21), *and see Note* 126.]	No.

...quent felony, was directed by 6 & 7 Will. 4, c. 111, and 14 & 15 Vict. c. 19, s. 9 ...unrepealed); and see *Reg.* v. *Shuttleworth*, 21 L. J. (N. S.) M. C. 36; 2 Den. C. ...L. The mode of stating the previous conviction and the mode of proof were pro-...l for by 7 & 8 Geo. 4, c. 28, s. 11. But now see the 24 & 25 Vict. c. 96, s. 116, ...Vol. 81, *ante*, p. 1112, which also apply (see Arch. Cr. Pl. by Bruce, 16th ed. pp. ...192, and *Reg.* v. *Summers*, 38 L. J. (N. S.) M. C. 62; 19 Law T., N. S. 799; *Reg.* ...*Ireland*, 11 Cox, C. C. 224).

...§ "TELEGRAPHS:" *Messages to be deemed Post Letters.*] By 32 & 33 Vict. c. 73, s. ...'every written or printed message or communication delivered at a post office for ...purpose of being transmitted by a postal telegraph, and every transcript thereof ...s by any person acting in pursuance of the orders of the postmaster general, shall ...post letter within the meaning of an act passed in the first year of the reign of her ...ist Majesty, chapter thirty-six:—provided always, that nothing in this act con-...d shall have the effect of relieving any officer of the post office from any liability ...h would but for the passing of this act have attached to a telegraph company, or ...ny other company or person, to produce in any court of law, when duly required so ...o, any such written or printed message or communication."

OFFENCE.	Class of as Statute or
TOLL BARS, Damaging. *See Offence* 360, *tit.* "Malicious Injuries."	
TRADES MARKS. *See tit.* "Merchandise Marks."	
TRADES UNIONS.	
501. *Circulating false Copies of Rules, &c.*] If any person with intent to mislead *or* defraud gives to any member of a trade union registered under this act, *or* to any person intending *or* applying to become a member of such trade union, a copy of any rules *or* of any alterations *or* amendments of the same other than those respectively which exist for the time being, on the pretence that the same are the existing rules of such trade union, *or* that there are no other rules of such trade union,	M. 34 & 35 s. 1
or	
502. If any person with the intent aforesaid gives a copy of any rules to any person on the pretence that such rules are the rules of a trade union registered under this act which is not so registered.	
TRADING COMPANIES.	
503. Director, officer, *or* contributory of company wound up, falsifying books, &c. of the company with intent to defraud *or* deceive any person.	M. 25 & 26 V s. 166
504. Any person upon oath, affidavit, &c., wilfully and corruptly giving false evidence.	M. Id. s.
505. A director, manager *or* officer of company wilfully concealing the name of a creditor entitled to object to reduction of capital, *or* misrepresenting the nature *or* amount of debt of a creditor,—*or* director, *or* manager aiding, *or* abetting *or* being privy to such concealment, *or* misrepresentation.	M. 30 & 31 Vic s. 19.
506. Forging, *or* uttering, &c. a share warrant *or* coupon, *or* a document purporting to be such, *or* knowingly demanding *or* endeavouring to receive dividend *or* money, by virtue of forged share warrant, &c.	F. Id. s. 3
507. Personating owner of share in company, *or* of share warrant *or* coupon and obtaining *or* endeavouring to obtain same, *or* any money due to owner.	F. Id. s. 3
508. Engraving on plate, &c. any share warrant *or* coupon,—*or* having possession thereof. [*See further, tit.* "Banking Shares."]	F. Id. s. 3
509. Signing a false statement, &c. under Life Assurance Act, 1870.	M. 33 & 34 Vict. s. 19.

Page, &c. of Consolid.	Where triable.	As to Bail.	Punishment.	If (Pro all
..	Sessions.	Compulsory.	Fine, *or* imprisonment, *or* both (s. 18). [MEM. *As to the registration of Trades Unions, see that title in Chap. II. of Part III. Frauds on such Unions, or officers misapplying or withholding their monies, are punishable summarily. See Vol. I. p.* 776.]	
No. 521, p. 607.	Sessions.	Compulsory.	Impr. for not exc. 2 yrs., with or without h. l. (s. 166).	(S 167 as t sec
..	Assizes.	Id.	Liable to the penalties of wilful perjury (s. 169). *See tit.* "Perjury."	
No. 522, p. 607.	Sessions.	Id.	Fine, *or* impr., *or* both.	
No. 523, p. 608.	Assizes.	Discretionary.	Pen. serv. life—5 yrs.; —*or* impr. not exc. 2 yrs., h. l. and s. c. (s. 34).	
No. 524, p. 608.	Id.	Id.	The same (s. 35).	
No. 525, p. 608.	Id.	Id.	Pen. serv. 14—5 yrs.; —*or* impr. not exc. 2 yrs., h. l. and s. c. (s. 36).	
..	Sessions.	Compulsory.	Fine and imp. (s. 19); —*or* punishable summarily.	

OFFENCE.	Class of Cr and Statute or Au
510. **TREASON.** [Statutes hereon: 25 Edw. 3, st. 5, c. 2; 12 Geo. 3, c. 11, s. 3; 30 Geo. 3, c. 48; 36 Geo. 3, c. 7; 39 & 40 Geo. 3, c. 93; 54 Geo. 3, c. 146; 57 Geo. 3, c. 6; 13 Eliz. c. 2, s. 2; 1 Mary, c. 1; 1 Ann. st. 2, c. 17, s. 3; 6 Ann. c. 7, s. 1. The 36 Geo. 3, c. 7, and 57 Geo. 3, c. 6, are partially repealed by the 11 Vict. c. 12, *infra.*]	Arch. Cr. Pl. b 16th ed, pp. 6
511. Compassing, devising, &c. to depose her Majesty of the crown;—*or* to levy war in order to intimidate either house of parliament, &c.;—*or* to stir up foreigners by publishing any printing *or* writing.	F. 11 Vict. c. 1 (*Note* 12
512.* Accessories *after* the fact. [*See tit.* "Queen," *ante, p.* 1185.]	Id. s. 8.
TREASURE TROVE.	
513. Concealing the finding of, from the crown. [*See* Reg. *v.* Thomas, 33 *L. J.* (*N. S.*) *M. C.* 22; 1 *Leigh & Cave, C. C.* 313.]	M. Common L
TREES, Stealing. *See Offences* 306—308, *tit.* "Larceny;" damaging, *Offences* 350—352, *tit.* "Malicious Injuries."	
TRUSTEES. Converting property to their own use. *See tit.* "Fraudulent Trustees."	
TURNPIKES, Damaging. *See Offence* 361, *tit.* "Malicious Injuries."	
UNWHOLESOME MEAT.	
514. Knowingly sending *or* bringing to market meat unfit for human food,—*or* sending it there with the intention to be sold as human food,—*or* exposing it for sale. [*See* Reg. *v.* Jarvis, 3 *F. & F.* 108, the Recorder; Reg. *v.* Crawley, *Id.* 109, Willes, J.; Reg. *v.* Stevenson, *Id.* 106, Willes, J.]	M. Common L
VACCINATION.	
515. Any person wilfully signing a false certificate [of successful vaccination] *or* duplicate under the act.	M. 30 & 31 Vict. c s. 30.
516. The like offence under the act.	M. 34 & 35 Vict. c. s. 7. [*See Note* 487, *Vi p.* 813.]

127 "TREASON:" *Venue.*] The venue in treason committed in England may be in any county in which a good overt act can be proved (Arch. Cr. Pl. by Bruce, ed. p. 673). Treason out of the realm may be tried either before the Court of Que Bench, by a jury of the county where the court sits, or by commission in any co therein named, by a jury of such county (35 Hen. 8, c. 2; Arch. Cr. Pro. 72). A

Page, &c. of Formulist.	Where triable.	As to Bail.	Punishment.	If Costs of Prosecution allowed.
Nos. 526—528, pp. 608, 609.	Assizes.	Not to be taken (see 11 & 12 Vict. c. 42, s. 23, *ante*, p. 979).	Death for offences against the person of the sovereign [but not severing the body, 33 & 34 Vict. c. 23, s. 31];—others, pen. serv. life—5 yrs.; —*or* impr. not exc. 2 yrs. (11 Vict. c. 12).	Yes.
Id.	Id.	Id.	Pen. serv. life—5 yrs.; —*or* impr. not exc. 2 yrs., and h. l.	No (s. 10).
Id.	Id.	Id.	Impr. and h. l. not exc. 2 yrs.	Id.
..	Sessions.	Compulsory.	Fine, *or* impr., *or* both.	No.
Nos. 529—530, p. 610.	Sessions.	Compulsory.	Fine, *or* impr., *or* both. [MEM. *Some of these offences are also punishable summarily. See Index.* "Unwholesome Meat, Carcase, &c."]	No.
No. 531, p. 110.	Id.	Id.	Fine, *or* impr., *or* both.	No.
..	Id.	Id.	Fine *or* impr., with *or* without h. l. for 2 yrs. (s. 7).	No.

secret consignment of arms being proof of guilt, see *Reg.* v. *Davitt and another*, 12 C. C. 56.

Time of Prosecution.] The part of this statute (11 Vict. c. 12) which punished a for *words spoken only* is now inoperative, as the 4th section limited the prosecution two years next after the passing of this act," and the statute was passed on the

OFFENCE.	Class of Of and Statute or Au
VALUABLE SECURITY, Stealing or destroying. *See Offence* 301, *tit.* "Larceny;" compelling person to execute, *Offences* 15, 197, *ante*, pp. 1016, 1078; obtaining by fraud, *Offence* 195, *ante*, *p.* 1078.	
VENDORS.	
517. Seller *or* mortgagor of land, *or* of chattels real *or* personal, *or* choses in action conveyed *or* assigned to a purchaser [*or* mortgagee, 23 & 24 Vict. c. 38, s. 8], *or* the solicitor or agent of such seller *or* mortgagor,—concealing any settlement, deed, will *or* other instrument material to the title, *or* any incumbrance from the purchaser [*or* mortgagee, 23 & 24 Vict. c. 38, s. 8],—*or* falsifying any pedigree upon which the title does *or* may depend, in order to induce him to accept the title offered *or* produced to him,—with intent in any of such cases to defraud.	M. 22 & 23 Vi s. 24 (*Note*
VIADUCTS, Pulling down, &c. *See Offence* 359, *tit.* "Malicious Injuries."	
WAR DEPARTMENT STORES (*Note* 130).	
518. Without lawful authority (proof of which lies on the accused) applying any of the authorized marks of ownership in *or* on any stores.	M. 30 & 31 Vict s. 5.
519. With intent to conceal her Majesty's property in any stores, taking out, destroying, *or* obliterating wholly *or* in part any such mark.	F. Id. s. 6
520. Without lawful authority (proof of which lies on the accused) receiving, possessing, keeping, selling *or* delivering any stores bearing any such mark *or* any part of any such mark, knowing them to bear such mark *or* part of a mark.	M. Id. s. 7
WHARF, Destroying. *See Offences*, 356, 357, *tit.* "Malicious Injuries."	
WIFE.	
521. Publicly exposing to sale and selling a wife.	M. Common L

22nd April, 1848, and has not been continued; but if the words amount to se the offender may be indicted at common law.

129 "VENDORS:" *Sanction to Prosecution.*] No prosecution for this offence i commenced without the sanction of her Majesty's Attorney-General, or, in cas office be vacant, of her Majesty's Solicitor-General;—and no such sanction is to be without such previous notice of the application for leave to prosecute to the intended to be prosecuted, as the Attorney-General or the Solicitor-General (as th may be) shall direct (22 & 23 Vict. c. 35, s. 24).

n, &c. of nalist.	Where triable.	As to Bail.	Punishment.	If Costs of Prosecution allowed.
. 532, . 610.	Sessions.	Compulsory.	Fine, *or* impr. not exc. 2 yrs., with *or* without h. l. *or* by both, as the court shall award, —and also liable to action for damages. [*See title*, "Real Estates."]	No.
o. 533, p. 611.	Sessions.	Discretionary.	Impr. for any term not exc. 2 years, with *or* without h. l. (s. 5).	Yes (24 & 25 Vict. c. 96 s. 121; see *Note* 130).
o. 534, p. 611.	Id.	Id.	Pen. serv. not exc. 5 years,—*or* impr. for not exc. 2 years, with *or* without h. l. and s. c. (s. 6).	Yes.
o. 535, p. 611.	Id.	Id.	Impr. for not exc. 1 year, with *or* without h. l. (s. 7).	Yes (24 & 25 Vict. c. 96 s. 121; see *Note* 130).
No. 536, p. 611.	Sessions.	Compulsory.	Fine, *or* impr., *or* both.	No.

"WAR DEPARTMENT STORES:" *Apprehension of Offenders—Search Warrant—tion by Secretary for War—Incorporation of Provisions of Larceny Act*, 1861.] B 1 Vict. c. 128, s. 15, constables of the metropolitan police force may stop an suspected persons, &c. By sect. 20, the Secretary of State for War may pr persons in relation to all stores under his control, &c. Sect. 16 incorporates par Larceny Consolidation Act, 1861, 24 & 25 Vict. c. 96, viz.—sect. 98, as to pri in the second degree and accessories in felonies, and abettors in misdemeanor 100, as to restitution of property; sect. 103, as to apprehension of offenders

OFFENCE.	Class o a Statute o
WILL or CODICIL, Forging. *See Offence* 227, *tit.* "Forgery;" Stealing, *Offence* 303, *tit.* "Larceny."	
WITCHCRAFT.	
522. Person pretending to exercise *or* use any kind of witchcraft, sorcery, inchantment, *or* conjuration,—*or* undertaking to tell fortunes,—*or* pretending, from his skill *or* knowledge in any occult *or* crafty science, to discover where *or* in what manner any goods *or* chattel, supposed to have been stolen *or* lost, may be found. [*See tit.* "False Pretences;" *and when it is larceny of money, &c., see* Reg. *v.* Bunce, 1 *F. & F.* 523.]	M. 9 Geo.
WOMEN.	
523. Whosoever shall, by false pretences, false representations, *or* other fraudulent means, procure any woman *or* girl under the ages of twenty-one years to have illicit carnal connexion with any man (*Note* 131).	M. 24 & 25 V s. 4
WORKS OF ART, &c., Damaging. *See Offence* 362, *tit.* "Malicious Injuries."	
WORKSHOPS REGULATION.	
524. Forging *or* counterfeiting any certificate required by act [*i.e.* of teacher as to school attendance of children, ss. 16, 17],—*or* giving *or* signing any such certificate falsely,—*or* wilfully making use of any forged, counterfeited, *or* false certificates,—*or* aiding in *or* conniving at any of these offences.	M. 30 & 31 Vi s. 17
525. Forging *or* counterfeiting Home Secretary's certificate of appointment of inspector *or* sub-inspector of factories—*or* making use of any forged, counterfeited, *or* false certificate,—*or* falsely pretending to be an inspector *or* sub-inspector of factories.	M. Id. s.
WOUNDING. *See Offences* 46, 47, 65, *titles* "Assaults" *and* "Attempt to Murder."	

persons in general without warrant and issue of search warrant (*Note* 78, *ante*, sect. 115, as to Admiralty jurisdiction; sect. 116, as to form of indictment quent offence; sect. 117, fine and sureties in addition to imprisonment, &c.; as to hard labour; sect. 119, solitary confinement and whipping; and sect.

[illegible]	Where triable.	As to B[illegible]	
..	Sessions.	Com[illegible]	
No. 537, p. 612.	Sessions.	Discretion[illegible]	
..	Sessions.	Compulsory.	Imp[illegible] ne[illegible] or[illegible] [Mem[illegible] sion[illegible] c. 1[illegible] certi[illegible]
..	Id.	Id.	Impr. not e[illegible] with[illegible]

[illegible] in misdemeanors. See also 30 & 31 Vict. c. 128, s[illegible]

[illegible] "Women:" A conspiracy to attain this object is a m[illegible] [illegible], *Mears and Chalk*, 2 Den. C. C. 79; 20 L. J. (N. S.) [illegible]

PART III.

OTHER PROCEEDINGS OUT OF SESSIONS.

CHAPTER I. MATTERS TO BE DONE IN SPECIAL SESSIONS.
,, II. MATTERS TO BE DONE IN PETTY SESSIONS, OR BY ONE JUSTICE.

CHAPTER I.

MATTERS TO BE DONE IN SPECIAL SESSIONS.[1]

Preliminary observations.

We have explained in Vol I. pp. 69, 70, what is a special sessions, and given a tabular view of the purposes for, and the periods of the year at which they are required in certain cases to be holden. Of course, none of the general provisions of the 11 & 12 Vict. c. 42 (as to indictable offences) apply; nor can 11 & 12 Vict. c. 43 (as to summary convictions and orders), be made available in these matters, either as to the time for making the complaint, or the processes to be issued, as 11 & 12 Vict. c. 43, s. 35, excepts all matters other than summary convictions and orders, or as to the costs on complaints. Many of the matters, however, in this chapter, to which there are two parties, the provisions of the 20 & 21 Vict. c. 43, and 42 & 43 Vict. c. 49, treated of in Vol. I. p. 263, as to stating a case for the opinion of a superior court, will apply.

Mode of convening a special sessions.

The general mode of convening a special sessions (where notice of it is to be given to other persons than justices) was formerly by a precept under the hands of two justices directed to the high constable of the hundred, who issued his warrant to the petty constables of the several parishes, commanding them to do the act or acts required of him. In particular

1 In well-regulated courts of special sessions, minutes of the proceedings are entered and kept in a separate book, called "The Special Sessions Book."

cases the statute provides for the manner of convening it, but none fixes the length of notice, except the Game Act, 1 & 2 Will. 4, c. 32, s. 18, and the Theatres Act, 6 & 7 Vict. c. 68, s. 5, which in each case is seven days. With respect now to convening the justices together, 7 & 8 Vict. c. 33, s. 7, after reciting that "it is expedient to relieve high constables from "the duty of serving notices of the holding of special sessions "on the *justices of the peace* of the division of special sessions "personally," enacts,—

Notice to justices.

7 & 8 Vict. c. 33, s. 7.

"That from and after the passing of this act, in all cases in which special sessions are required to be holden for any division of any county or place, if notice of the intended holding of such special sessions be signed by any one justice of the peace usually acting within such division, and if a copy of such notice be sent by post 2 a reasonable time before the day on which such sessions are to be holden, addressed to each justice of the peace resident and usually acting within such division at his residence in such division, such notice shall be deemed to have been duly given to or served on each such justice of the peace, any law or custom to the contrary notwithstanding."

And by "The High Constables Act, 1869," 32 & 33 Vict. c. 47, which practically abolishes the office of high constable as regards proceedings before justices, sect. 3, it is enacted,—

How notices to other persons are to be sent.

32 & 33 Vict. c. 47, s. 3.

"It shall be the duty of the clerk to the justices of the peace in each petty sessional division, other than those which are either wholly or partly within the metropolitan police district or the city of London, *to send by post to the proper parties* 3 in such division all

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2 The best proof of service would be by sending it as a registered letter, and the signature to the receipt proved.

3 The intention of the act, as appears by this section, is to place the clerk to the justices in the place of the high constable in all the special sessions cases upon which this section is to operate (the precepts to him being dispensed with), and the clerk to the justices must, consequently, perform all the duties which the high constables used to perform in such cases. Neither the duties of other persons, *i. e.* petty constables, nor any other requirement of the statutes relating to special sessions, appears to be interfered or dispensed with by this section. As the justices, and not their clerk, are to fix the days of holding special sessions for any purpose, the justices should make some appointment of the day, and this it would seem cannot be done more conveniently than by a precept addressed to their clerk in the same form as before usually directed to the high constable, and then the clerk to the justices should address a warrant to the petty constables, (where that course was formerly required to be taken by the high constable in any case), with the notice to be delivered to other parties, or affixed on church doors, &c., for the words in the section, "*send* by post *to the proper parties*," cannot be applied to notices required by the law to be affixed on the doors of churches, &c., and therefore it will be

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"That from and after the passing of this act, in all cases in which special sessions are required to be holden for any division of any county or place, if notice of the intended holding of such special sessions be signed by any one justice of the peace usually acting within such division, and if a copy of such notice be sent by post [2] a reasonable time before the day on which such sessions are to be holden, addressed to each justice of the peace resident and usually acting within such division at his residence in such division, such notice shall be deemed to have been duly given to or served on each such justice of the peace, any law or custom to the contrary notwithstanding."

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We have explained in Vol I. pp. 69, 70, what is a special sions, and given a tabular view of the purposes for, and periods of the year at which they are required in certain to be holden. Of course, none of the general provisions of 11 & 12 Vict. c. 42 (as to indictable offences) apply; nor 11 & 12 Vict. c. 43 (as to summary convictions and orders) made available in these matters, either as to the time making the complaint, or the processes to be issued, as 1 12 Vict. c. 43, s. 35, excepts all matters other than summ convictions and orders, or as to the costs on complaints. M of the matters, however, in this chapter, to which there two parties, the provisions of the 20 & 21 Vict. c. 43, 42 & 43 Vict. c. 49, treated of in Vol. I. p. 263, as to statin a case for the opinion of a superior court, will apply.

Mode of convening a special sessions.

The general mode of convening a special sessions (wh notice of it is to be given to other persons than justices) w formerly by a precept under the hands of two justices direct to the high constable of the hundred, who issued his warra to the petty constables of the several parishes, commandi them to do the act or acts required of him. In particul

1 In well-regulated courts of special sessions, minutes of the pr ceedings are entered and kept in a separate book, called "The Speci Sessions Book."

the statute provides for the manner of convening it, but fixes the length of notice, except the Game Act, 1 & 2 4, c. 32, s. 18, and the Theatres Act, 6 & 7 Vict. c. 68, which in each case is seven days. With respect now to ning the justices together, 7 & 8 Vict. c. 33, s. 7, after g that "it is expedient to relieve high constables from duty of serving notices of the holding of special sessions the *justices of the peace* of the division of special sessions onally," enacts,—

Notice to justices.

7 & 8 Vict. c. 33, s. 7.

t from and after the passing of this act, in all cases in special sessions are required to be holden for any division of unty or place, if notice of the intended holding of such special ns be signed by any one justice of the peace usually acting n such division, and if a copy of such notice be sent by post 2 onable time before the day on which such sessions are to be n, addressed to each justice of the peace resident and usually g within such division at his residence in such division, such e shall be deemed to have been duly given to or served on each justice of the peace, any law or custom to the contrary notstanding."

d by "The High Constables Act, 1869," 32 & 33 Vict. , which practically abolishes the office of high constable gards proceedings before justices, sect. 3, it is enacted,—

How notices to other persons are to be sent.

32 & 33 Vict. c. 47, s. 3.

It shall be the duty of the clerk to the justices of the peace in petty sessional division, other than those which are either lly or partly within the metropolitan police district or the city ondon, *to send by post to the proper parties* 3 in such division all

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The best proof of service would be by sending it as a registered letter, the signature to the receipt proved.

The intention of the act, as appears by this section, is to place the to the justices in the place of the high constable in all the special ons cases upon which this section is to operate (the precepts to him g dispensed with), and the clerk to the justices must, consequently, orm all the duties which the high constables used to perform in such . Neither the duties of other persons, *i. e.* petty constables, nor any requirement of the statutes relating to special sessions, appears to be fered or dispensed with by this section. As the justices, and not their , are to fix the days of holding special sessions for any purpose, the ices should make some appointment of the day, and this it would seem not be done more conveniently than by a precept addressed to their k in the same form as before usually directed to the high constable, then the clerk to the justices should address a warrant to the petty stables, (where that course was formerly required to be taken by the h constable in any case), with the notice to be delivered to other parties, affixed on church doors, &c., for the words in the section, "*send* by *to the proper parties*," cannot be applied to notices required by the w to be affixed on the doors of churches, &c., and therefore it will be

32 & 33 Vict. c. 47, s. 3.

notices of the holding of special or other sessions, of days and of any other matter or thing (except such as relate against the hundred 4 or other like district, or to parlian municipal elections, or the registration of electors) of whi are now by law or custom served upon or sent to any officer or other person by high constables,—and no precept to perform any such duty in any such division shall he issued to any high constable, after the passing of this act.

Forms.

For the general forms for convening special sessi Oke's "*Formulist*," 6th ed. pp. 613, 614.

Proof of convening.

Proof of the special sessions having been legally c should be given before entering upon the business of

Open court.

The room or place is an open court for the pu hearing special sessions matters.

Adjournments.

There is no *general* statutory power to adjourn a sessions, unless the case is one which falls within the tion of the 11 & 12 Vict. c. 43, s. 1. Some general p is needed under the acts 9 Geo. 4, c. 61; 5 & 6 Vict. 5 & 6 Will. 4, c. 76; 5 & 6 Will. 4, c. 50; 6 & 7 Vict and 2 & 3 Vict. c. 84; but the justices having once upon a matter in special sessions may, of course, adjou hearing or determination of the case. In case of an adj special sessions, it is prudent to give the like notice as original sessions.

ALEHOUSES, see tit. "*Intoxicating Liquors*," *post*.

APPEALS AGAINST RATES, see tit. "*Poor*," *post*.

BEERHOUSES, see tit. "*Intoxicating Liquors*," *post*.

BILLIARDS.

As to the grant of billiard licences for the keeping of "p billiard tables and bagatelle boards, or instruments used in game of the like kind"—they are granted under the authori 8 & 9 Vict. c. 109, s. 10, by justices at the general annual licen

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convenient still to employ the petty constable as before in these cases, if in these it is desirable, to retain his services in all similar cases. fees of the justices' clerks will not be affected by the new mode.

4 By sect. 5 of the act 32 & 33 Vict. c. 47, the chief constable of county is substituted for the high constable in reference to claims aga the hundred. See *tit.* "Hundred," *post*.

g held for granting licences to alehouses, or at an adjourn- 8 & 9 Vict. c. 109.
d it, and transferred at special sessions held for transferring
ences. The like notices are to be given by applicants for
liard licences as then required for alehouse licences under
eo. 4, c. 61, and now it is the same under the amended mode
ed by the Licensing Act, 1872, 35 & 36 Vict. c. 94 (see
). Alehouse keepers are not required, as will be seen, to
ut this licence (though of course they must not allow
ing" at billiards, see 35 & 36 Vict. c. 94, s. 17), but keepers
houses and all other persons not consuming on their premises
le liquors (beer and sweets not being such now), must do so,
keep a billiard table or bagatelle board for public playing
& 9 Vict. c. 109, s. 11).

of Billiard Licences.] The 8 & 9 Vict. c. 109 ("An Act to
the Law concerning Games and Wagers"), s. 10, enacts,
the justices in every division, district, and place in England
ich a special session of the justices of the peace (called the
l annual licensing meeting) is holden annually for granting
s to persons keeping or being about to keep inns, alehouses,
virtualling-houses to sell exciseable liquors by retail to be
or consumed on the premises therein specified, shall have
rity at such general annual licensing meeting *or* at any ad-
ment thereof, to grant billiard licences to such persons as the
justices shall in their discretion deem fit and proper to keep
e billiard tables and bagatelle boards or instruments used in
game of the like kind,—and at the special sessions holden for
ferring licences to keep inns shall have authority to transfer
billiard licences to such other persons as they in their discre-
shall deem fit and proper to continue to hold the same—and
in each case shall be required to give the like notice of their
tion to apply for such billiard licence, and entitled to receive
like notice of the licensing days as is required in the case of
ns intending to apply for a licence or the transfer of a licence
ll exciseable liquors by retail to be drunk or consumed on the
mises, or as near thereto as the case will allow;—and every such
iard licence shall be in the form given in the third schedule
xed to this act, and shall continue in force in the counties of
iddlesex and Surrey from the fifth day of April, and elsewhere
the tenth day of October, after the granting thereof, for one
le year thence respectively next ensuing, and no longer;—and
clerk of the justices shall be entitled to demand and receive
every person licensed under this act, for the petty constable
other peace officer, for serving notices and other services re-
ed of him, the sum of one shilling, and for the clerk of the
ces, for the licence, the sum of five shillings;—and every clerk
shall demand or receive from any person for such fees more

8 & 9 Vict. c. 109.

than the said sums, being together six shillings, shall such offence, on conviction before one justice, forfeit a sum of five pounds."

At the close of the repealing clause, sect. 75 of the Act, 1872, 35 & 36 Vict. c. 94, there is a proviso applica above enactment, the pertinent portion of it being as f "That in the case of persons intending to apply for billiar under the act of the eighth and ninth years of the rei present Majesty, chapter one hundred and nine, intituled to amend the Law concerning Games and Wagers,'—o transfer of such licences,—the same notices shall be giv by this act required in the case of licences as defined by th as near thereto as circumstances admit."

8 & 9 Vict. c. 109, s. 11, enacts (*inter alia*), "That ever room, or place kept for public billiard playing, or where billiard table or bagatelle board, or instrument used in a of the like kind is kept, at which persons are admitted to except in houses or premises specified in any licence grante an act passed in the ninth year of the reign of King Ge Fourth, intituled 'An Act to regulate the granting of Lic Keepers of Inns, Alehouses, and Victualling-houses in E hereinafter called a victualler's licence,—shall be licensed this act."

The licensed alehouse keeper and no one else is specially ex by this section from taking out a billiard licence; but if he billiard table, he must keep the billiard room closed at such t play at houses licensed for billiards is not allowed. In the f billiard licence given in the schedule to 8 & 9 Vict. c. 109, it w seen there is this prohibition or condition,—"and do not kno allow the consumption of *exciseable* liquors therein by the p resorting thereto;" but it was held in *Jones* v. *Whittaker* (39 N. S. 139; 22 Law T., N. S. 535; affirming *Lancashire* v. *Just Staffordshire* 26 L. J. (N. S.) M. C. 171), that neither beer nor s is now an exciseable liquor, beer-house keepers and other pe where beer or sweets are consumed, may take out a licence, an not liable to be proceeded against for an offence against the te the billiard licence, if they allow those liquors to be consum their premises. The playing at billiards or bagatelle, &c. ar since 8 & 9 Vict. c. 109, unlawful games.

If the justices refuse to grant a billiard or bagatelle licence, t is no appeal, as there was at the time of the passing in 1845 o 8 & 9 Vict. c. 109, in respect to alehouse licences, it being so in the year 1857, in the case of *Reg.* v. *Justices of Devonshire* (30 T. 150; *Ex parte Chamberlain*, 8 E. & B. 644, *S. C.*); nor is ther appeal against the refusal to transfer a licence; and the 35 & Vict. c. 94, s. 75, does not extend the law as to such appeal in re to alehouse and other licences, to billiard or bagatelle licences.

CANAL BOATS.

he Canal Boats Act, 1877, 40 & 41 Vict. c. 60, "An Act to provide for the Registration and Regulation of Canal Boats used as Dwellings," it is enacted as follows: 40 & 41 Vict. c. 60.

1. *Registration of Use of Canal Boat as Dwelling.*—After the ation of twelve months after the commencement of this act, f the regulations of the local government board hereinafter ioned have not at that time come into force, then after the ation of six months from the date at which they have come force, a canal boat shall not be used as a dwelling unless it has registered in accordance with this act,

The owner of a canal boat may register that boat with the tration authority hereinafter mentioned as a dwelling for such ber of persons of the specified age and sex as may be allowed the provisions of this act; and the boat shall be used as a lling only for the number of persons of the age and sex for ich it is registered.

If a canal boat is used as a dwelling in contravention of this the master of the boat, and also the owner of the boat, if he fault, shall each be liable to a fine not exceeding twenty lings for each occasion on which the boat is so used.

2. *Local Government Board to make Regulations for Registration, ny Number of Persons, promoting Cleanliness and preventing ctious Disease.*—The local government board shall make regu- ns, and may from time to time revoke and vary such regu- ns—

"(1.) For the registration of canal boats under this act, including certificates of registration, and the fees in connection with such registration; and

"(2.) For the lettering, marking and numbering of such boats; and

"(3.) For fixing the number, age and sex of the persons who may be allowed to dwell in a canal boat, having regard to the cubic space, ventilation, provision for the separation of the sexes, general healthiness, and convenience of accommodation of the boat; and

"(4.) For promoting cleanliness in and providing for the habitable condition of canal boats; and

"(5.) For preventing the spread of infectious disease by canal boats.

"The registration authority shall register every canal boat which nforms to the conditions of registration provided by the said egulations for the number of persons allowed by those regulations o dwell therein.

40 & 41 Vict. c. 60.

"3. *Certificate of Registry and Lettering and Numbering of Boat.*—Upon the registry of a boat under this act, the registration authority shall give to the owner thereof two certificates of registry, identifying the owner and the boat, and stating the place to which the boat is registered as belonging, and the number, age and sex of the persons allowed to dwell in the boat, and such other particulars as may be provided by regulations under this act, or may seem fit to the registration authority, and the master shall have the care of one of such certificates.

"Every canal boat when registered shall be lettered, marked and numbered in some conspicuous manner (as directed by the regulations made under this act), and such lettering, marking and numbering shall include the word "registered," and the name of the place to which the boat is registered as belonging, and the registered number.

"Any boat not lettered, marked and numbered in conformity with this section, or having the letter, mark or number altered, defaced or obliterated, shall be deemed, for the purposes of this act, to be an unregistered canal boat.

"4. *Power of Sanitary Authority far Prevention of Infectious Disease in Canal Boats.*—Where any sanitary authority within whose district a canal or any part of a canal is situate is informed by the master of a canal boat or otherwise that a person on a canal boat is suffering from an infectious disorder, the authority shall cause such steps to be taken as may by the certificate of their medical officer of health, or of any other legally qualified practitioner, appear requisite for preventing the said disorder from spreading, and for that purpose may exercise the power of removing a person suffering as aforesaid, and all other powers in relation to provisions against infection conferred by the Public Health Act, 1875, and may also, if need be, detain the boat; but such boat shall not be detained a longer time than is necessary for cleansing and disinfecting the same.

"5. *Authorised Person may enter Boat, &c.*—Where any person duly authorised by a registration or sanitary authority, or by a justice of the peace, has reasonable cause to suppose, either that there is any contravention of this act on board a canal boat, or that there is on board a canal boat any person suffering from an infectious disorder, he may, on producing (if demanded) either a copy of his authorisation, purporting to be certified by the clerk or a member of the sanitary authority, or some other sufficient evidence of his being authorised as aforesaid, enter by day such canal boat and examine the same and every part thereof, in order to ascertain whether on board such boat there is any contravention of this act, or a person suffering from an infectious disorder, and may, if need be, detain the boat for the purpose, but for no longer time than is necessary.

The master of the boat shall, if required by such person, pro- 40 & 41 Vict.
to him the certificate of registry (if any) of the boat, and c. 60.
him to examine and copy the same, and shall furnish him such assistance and means as such person may require for the of his entry and examination of and departure from the in pursuance of this section.

A refusal to comply with the requisition of such person under section shall be deemed to be an obstruction of such person.

If such person is obstructed in the performance of his duty this act in the case of any boat, the person so obstructing be liable to a fine not exceeding forty shillings.

6. *Education of Children dwelling on board Canal Boats.*—A in a canal boat registered in pursuance of this act, and his t, shall for the purposes of the Elementary Education Acts, 1873 and 1876, be deemed, subject as hereinafter mentioned, resident in the place to which the boat is registered as belong- and shall be subject accordingly to any bye-law in force under id acts in that place.

Provided that if the parent satisfies the school board or school dance committee having authority in that place, that the child ually attending school, or is under efficient instruction in dance with the said acts, in some other school district, the board or committee shall grant him without charge a certificate t effect, and thereupon he and his child shall be deemed for urposes aforesaid to be resident in the school district in which hild is so attending school, or under efficient instruction, and be subject to any bye-law in force therein.

The said certificate may on application by the parent be re- ed or varied by the school board or school attendance com- e for the place to which the boat is registered as belonging, may be rescinded without application by any such board or mittee, if they are satisfied, after due notice to the parent, that child is not properly attending school or under efficient instruc- in the school district mentioned in the certificate.

7. *Registration Authority.*—For the purpose of the registration anal boats the registration authority shall be such one or more the sanitary authorities having districts abutting on a canal as from time to time be prescribed by regulation of the local ernment board.

A canal boat shall be registered with some registration autho- having a district abutting on the canal on which such boat is ustomed or intended to ply.

With a view of determining the place to which a canal boat ngs, for the purpose of the Elementary Education Acts, 1870, and 1876, the registration authority shall register any canal in respect of which an application is made for registration as

40 & 41 Vict. c. 60.

belonging to some place which is either a school district of a school district, and is situate wholly or partly within diction of the registration authority with which it is regi

"8. *Expenses of Sanitary Authority.*—The expenses i the execution of this act by a local authority shall be d follows:

"(1.) When they are incurred by an urban sanitary a rural sanitary authority, or a port sanitary autho shall be defrayed out of the fund or rate out of expenses of such authority, as a sanitary autho the Public Health Act, 1875, are defrayed; pro when they are incurred by a rural sanitary auth shall be deemed to be general expenses; and

"(2.) When they are incurred by a vestry or district the metropolis they shall be defrayed as expense by such vestry or board in the execution of the Management Act, 1855, and the acts amending the

"9. *Regulations to be laid before Parliament.*—An ord local government board making, revoking or varying a lation in pursuance of this act shall not come into force u lain in a complete form as settled and approved by the forty days before both houses of parliament during the parliament.

"The local government board shall take steps for ena persons interested in any regulations made by that boar suance of this act to obtain copies thereof at such plac neighbourhood of canals as the local government board scribe, on payment of such sum not exceeding sixpence a prescribed by that board.

"10. *Illegal detention of Certificate of Registry.*—If the any canal boat illegally detains the certificate of registry boat, he may, on summary conviction before two jus directed by order of such justices to deliver up such certifi shall, in addition thereto, be liable to a fine not exceed shillings, and the justices may direct any part of such fi paid to the person injured by the detention of such certific

"11. *Application of Fees under this Act.*—All fees paid i of registration under this act shall be carried to the fund out of which the expenses incurred in the execution of th the authority making such registration are by this act de be payable.

"12. *Power of Canal Company, &c. to establish School* company or association, corporate or unincorporate, be owners of any canal boats, or being the owners, lessees, o takers of any canal, may, with the assent of a special reso their members, and notwithstanding any act of parliament, or document regulating the funds of the company or ass

riate any portion of their funds to the establishment and nance, or establishment or maintenance, of a school or schools 1 the children of the persons employed in canal boats may ed, maintained, and educated, or educated only; with this ion, that the children shall not be maintained gratuitously, lodging or education may be wholly or partially gratuitous. 'special resolution' shall for the purposes of this act mean a on passed in manner provided by the fifty-first section of panies Act, 1862.

40 & 41 Vict. c. 60.

Recovery of Penalties.—Offences under this act may be ted, and fines under this act may be recovered on summary ion before two justices having jurisdiction, either in the o which the boat in respect of which the offence was com- is registered as belonging, or in the place where the offence nitted, or in the place where the alleged offender for the time s, in manner provided by the act of the eleventh and twelfth f the reign of her present Majesty, chapter forty-three, in- 'An Act to facilitate the performance of the Duties of s of the Peace out of Sessions within England and Wales espect to Summary Convictions and Orders,' and the acts ing the same.

. *Definitions.*—In this act, unless the context otherwise —

e expression 'sanitary authority' means an urban sanitary authority, a rural sanitary authority, or a port sanitary authority; provided that in the case of the parishes mentioned in schedule A and the districts mentioned in schedule B to the Metropolis Management Act, 1855, so far as they are not within the jurisdiction of a port sanitary authority, the vestry of any such parish and the district board of any such district elected under the Metropolis Management Act, 1855, and the acts amending the same, shall be deemed to be sanitary authorities, and where other sanitary authorities are by this act empowered to exercise powers conferred by the Public Health Act, 1875, may exercise similar powers conferred by any act of parliament extending to such parishes or districts:

e expression 'parent' includes guardian, and every person who is liable to maintain or has the actual custody of any child:

e expressions 'urban sanitary authority' and 'rural sanitary authority' and 'port sanitary authority' have the same meaning as in the Public Health Act, 1875:

e expression 'canal' includes any river, inland navigation, lake, or water being within the body of a county, whether it is or not within the ebb and flow of the tide:

PART III.

OTHER PROCEEDINGS OUT OF SESSIONS.

CHAPTER I. MATTERS TO BE DONE IN SPECIAL SESSIONS.
,, II. MATTERS TO BE DONE IN PETTY SESSIONS, OR BY ONE JUSTICE.

CHAPTER I.

MATTERS TO BE DONE IN SPECIAL SESSIONS.[1]

Preliminary observations.

We have explained in Vol I. pp. 69, 70, what is a special sessions, and given a tabular view of the purposes for, and the periods of the year at which they are required in certain cases to be holden. Of course, none of the general provisions of the 11 & 12 Vict. c. 42 (as to indictable offences) apply; nor can 11 & 12 Vict. c. 43 (as to summary convictions and orders), be made available in these matters, either as to the time for making the complaint, or the processes to be issued, as 11 & 12 Vict. c. 43, s. 35, excepts all matters other than summary convictions and orders, or as to the costs on complaints. Many of the matters, however, in this chapter, to which there are two parties, the provisions of the 20 & 21 Vict. c. 43, and 42 & 43 Vict. c. 49, treated of in Vol. I. p. 263, as to stating a a case for the opinion of a superior court, will apply.

Mode of convening a special sessions.

The general mode of convening a special sessions (where notice of it is to be given to other persons than justices) was formerly by a precept under the hands of two justices directed to the high constable of the hundred, who issued his warrant to the petty constables of the several parishes, commanding them to do the act or acts required of him. In particular

1 In well-regulated courts of special sessions, minutes of the proceedings are entered and kept in a separate book, called "The Special Sessions Book."

e owner in making such application shall inform the registration
uity of a time and place at which the boat may be examined with a
to registration; and shall also furnish such other information as the
tration authority may require in relation thereto.

Every registration authority shall, from time to time, appoint or
by a fit and proper person to examine and report upon the several
boats the owners whereof may, in pursuance of the regulation in
behalf, have made application to the authority for registration, and
pay him a reasonable remuneration for such examination and report.
very person so appointed or employed shall ascertain and duly record
respect to the boat and the cabin or cabins thereof the several par-
ars requisite to enable him to furnish the information to be set forth
report which shall be in the Form A in the schedule to these regula-
, and shall be submitted to the registration authority at their next
ary meeting, or at a special meeting to be called for the purpose.

Appointment of and examination and report by officer of registration authority.

The following conditions shall be complied with before a canal boat
gistered; that is to say:—

Registration of boat.

. The boat shall contain a cabin or cabins, clean, in good repair, and so constructed as to be capable of being maintained at all times weather-proof, dry, and clean.

. The interior of any after cabin intended to be used as a dwelling shall contain not less than 180 cubic feet of free air space, and the interior of any fore cabin, if intended to be so used, shall contain not less than 80 cubic feet of free air space.

. Every cabin, if intended to be used as a dwelling, shall be provided with sufficient means for the removal of foul and the admission of fresh air, exclusive of the door or doors and of any opening therein.

. Every cabin, if intended to be used as a dwelling, shall be so constructed or fitted as to provide adequate and convenient sleeping accommodation for the persons allowed by these regulations to dwell in the boat.

. If the boat be a "narrow" boat, every cabin intended to be used as a dwelling shall be so constructed or fitted that there shall be no locker or cupboard obstructing the free passage from the door to the bulkhead, and no shut-up cupboard above the cross-bed on more than one side of the cabin.

. One cabin at the least in the boat shall be furnished with a suitable stove and chimney in a safe and convenient situation, and in all other respects sufficient for the reasonable requirements of the persons allowed by these regulations to dwell in the boat.

. The boat shall be properly furnished or fitted with lockers, cupboards, and shelves of suitable construction and adequate capacity, and in all other respects sufficient for the reasonable requirements of the persons allowed by these regulations to dwell in the boat.

. The boat, if intended to be ordinarily used for the conveyance of any foul or offensive cargo, shall contain, between the space to be occupied by such cargo and the interior of any cabin intended to be used as a dwelling, two bulkheads of substantial construction, which shall be separated by a space not less in any part than four inches, and open throughout to the external air, and furnished with a pump for the removal of any liquid from such space, and the one next adjoining the space to be occupied by the cargo shall be water-tight.

. The boat shall be furnished with a suitable cask or other appropriate vessel or receptacle of sufficient capacity for the storage of not less than three gallons of water for drinking.

In every case where the conditions hereinbefore prescribed have been complied with, the registration authority shall cause the boat to be registered, in a book in the Form B in the schedule to these regulations, as a dwelling for the number of persons allowed by the said regulations to dwell therein.

4. The owner of a canal boat which may have been registered as a dwell-

Notice of

change of master.

ing shall, from time to time, on every new appointment of a mast in writing to the registration authority the christian name and of the master newly appointed.

Certificates of registration.

5. Each of the two certificates of registration which, in pur the provisions of sect. 3 of the Canal Boats Act, 1877, the reg authority, upon registry of a canal boat under that act, shall gi owner of the boat, shall, in addition to such other particulars seem fit to the authority, contain the several particulars set fort Form C in the schedule to these regulations.

Fees in connection with registration.

6. Every owner of a canal boat applying for registration sha the delivery of the certificates, pay to the registration authority of five shillings as a fee in connection with the registration of th

II.—*For the Lettering, Marking, and Numbering of R Boats.*

7. Every owner of a canal boat registered as a dwelling shal with, upon the receipt of the certificates of registration from the r tion authority, cause such boat to be lettered, marked, and numl accordance with the following rules; that is to say:—

a. The word "registered," the name of the place to which t has been registered as belonging, the registered number boat, and such distinctive mark or marks as may be requ the registration authority, and may be specified in the cer of registration, shall be painted white on a black grou conspicuous position on the outside of one of the cabins of th

b. The name of the place to which the boat has been regist belonging, and the registered number of the boat, shall be in Roman capital letters and figures, not less than two in height.

III.—*For fixing the Number, Age, and Sex of the Persons wh be allowed to dwell in a Canal Boat, having regard to the Space, Ventilation, provision for the Separation of the general Healthiness, and Convenience of Accommodation Boat.*

8. For the purpose of fixing the number, age, and sex of the p who may be allowed to dwell in a canal boat, which conforms conditions of registration provided by these regulations, and which in pursuance of the statutory provisions in that behalf, have been tered as a dwelling, the following rules shall apply:—

a. Subject to the conditions hereinafter prescribed with respect t separation of the sexes, the number of persons who may be all to dwell in the boat shall be such that in the cabin or cabins boat there shall be not less than 60 cubic feet of free air spac each person above the age of 12 years, and not less than 40 feet of free air space for each child under the age of 12 years.

Provided that in the case of a boat built prior to the thir day of June, one thousand eight hundred and seventy-eight free air space for each child under the age of 12 years sha deemed sufficient if it is not less than 30 cubic feet:

Provided also, that in the case of a boat registered as a " boat, and worked by shifts, by four persons above the ag 12 years, there shall be not less than 180 cubic feet of fre space in any cabin occupied as a sleeping place by any two of persons at one and the same time.

A cabin occupied as a sleeping place by a husband and wife shall not at any time while in such occupation be occupied as a sleeping place by any other person of the female sex above the age of 12 years, or by any other person of the male sex above the age of 14 years:

Provided that in the case of a boat built prior to the thirtieth day of June, one thousand eight hundred and seventy-eight, a cabin occupied as a sleeping place by a husband and wife may be occupied by one other person of the male sex above the age of 14 years, subject to the following conditions:—

i. That the cabin be not occupied as a sleeping place by any other person than those above mentioned;

ii. That the part of the cabin which may be used as a sleeping place by the husband and wife shall, at all times while in actual use, be effectually separated from the part used as a sleeping place by the other occupant of the cabin by means of a sliding or otherwise moveable screen or partition of wood or other solid material, so constructed or placed as to provide for efficient ventilation.

A cabin occupied as a sleeping place by a person of the male sex above the age of 14 years shall not, at any time, be occupied as a sleeping place by a person of the female sex above the age of 12 years, unless she be the wife of the male occupant, or of one of the male occupants in any case within the proviso to Rule *b*.

V.—*For promoting Cleanliness in and providing for the Habitable Condition of Canal Boats.*

Renewal of paint.

. The owner of a canal boat which may have been registered as a lling shall, once at least in every three years, cause the paint on y surface in the interior of every cabin which may be used as a lling to be thoroughly renewed.

Removal of bilge water.

. The master of a canal boat which may have been registered as a lling shall cause all bilge water to be removed therefrom by pumping ften as may be necessary to prevent any collection of such water ith the floor of any cabin which may be used as a dwelling, and in case, not less frequently than once in every 24 hours.

Cabins to be kept cleanly and habitable.

. The master of a canal boat which may have been registered as a lling shall cause every cabin which may be used as a dwelling to be t at all times in a cleanly and habitable condition.

V.—*For preventing the Spread of Infectious Diseases by Canal Boats.*

Notification of infectious disease.

. In every case where a person on a canal boat is seriously ill or is ilently suffering from an infectious disease, the master of the boat, if, the time, the boat is proceeding on a journey, shall, as soon as may be ticable, give information thereof to the sanitary authority within hose district is situate the canal or the part of the canal along which e boat may at the time be passing, and, on the arrival of the boat at port or place of destination, to the sanitary authority within whose istrict such port or place is situate, and also to the owner of the boat.

If at the time the boat be at its port or place of destination, the master all forthwith inform the sanitary authority within whose district such

port or place is situate, and also the owner of the boat, that a person on board the boat is seriously ill or is evidently suffering from an infectious disease.

The owner of the boat shall forthwith, upon the receipt from the master of information to the effect that a person on board the boat is or has been suffering from an infectious disease, give notice to that effect to the sanitary authority having jurisdiction in the place to which the boat may have been registered as belonging.

Certificate of cleansing and disinfection.

13. In every case where, in the exercise of the power conferred by section 4 of the Canal Boats Act, 1877, a sanitary authority may have detained a canal boat for the cleansing and disinfection thereof, the authority, before allowing the boat to proceed on its journey, shall obtain from their medical officer of health, or from some other legally qualified practitioner, a certificate to the effect that the boat has been duly cleansed and disinfected, and shall cause such certificate to be delivered to the master of the boat. The sanitary authority may pay a reasonable remuneration for any such certificate.

VI.—*Interpretation of Terms.*

14. In these regulations, unless the context otherwise requires, words have the same meaning as in the Canal Boats Act, 1877.

The expression "wide boat" means a boat not less than seven feet six inches beam:

The expression "narrow boat" means a boat of less than seven feet six inches beam.

SCHEDULE.

Form A.

Examining Officer's Report on Canal Boats.

1. Time and place of examination of canal boat .....
2. Name, or, if there be no name, the number of canal boat examined .....
3. Christian name, surname, and address of owner* ....
4. Christian name and surname of master .....
5. Route along which the boat is accustomed or intended to ply .....
6. Nature of the traffic in which the boat is accustomed or intended to be employed .....
7. Mode of propulsion;
   and whether a "wide" or "narrow" boat;
   and whether to be used as a "fly" boat worked by shifts .....
8. Number of cabins in the boat .....

Dimensions and cubical capacity of the cabin or
:—
Rule of measurement and of deduction adopted:—†

		ft.	in.
After Cabin ..	Height		
	Length		
	Width		
	Gross cubical capacity ...		
	Net cubical capacity or free air space		
Fore Cabin ..	Height		
	Length		
	Width		
	Gross cubical capacity ...		
	Net cubical capacity or free air space		

10. Description of the construction, furniture, and fitings of the boat, and the several cabins thereof, as regards the following details, viz.:—

a. Whether each cabin is clean, in good repair, weatherproof, and capable of being kept dry and clean .....

b. What means are provided in each cabin for the removal of foul and the admission of fresh air, exclusive of the door or doors, and of any opening therein .....

c. What provision is made in respect of lockers, cupboards, and shelves in the boat .....

d. What provision is made for sleeping accommodation in each cabin .....

e. If the boat be a "narrow" boat;—whether every cabin intended to be used as a dwelling is so constructed or fitted that there shall be no locker or cupboard obstructing the free passage from the door to the bulkhead, and no shut-up cupboard above the cross-bed on more than one side of the cabin .....

f. Whether each or either cabin contains a stove and chimney of suitable construction and situation ..

g. If the boat be intended to be used for the conveyance of any foul or offensive cargo;—whether there are, between the space to be occupied by such cargo, and the interior of each cabin intended to be used as a dwelling, two bulkheads of substantial construction, of which that one next adjoining the space to be occupied by the cargo shall be water-tight, and which shall be separated by a space not less in any part than four inches, and open throughout to the external air, and furnished with a pump for the removal of any liquid from such space .....

h. Whether the boat is furnished with a suitable cask or other appropriate vessel or receptacle of sufficient capacity for the storage of not less than three gallons of water for drinking .....

General Observations as to the Fitness of the Boat for Registration as a D

Dated this day of 18 .

——— *Examining O*

* If the boat is owned by a partnership firm, or by a company or asso corporate or unincorporate, state the name of the firm, company, or associati their principal office or place of business.

† Here state which of the following rules has been adopted in determini internal dimensions and cubical capacity of the cabin or cabins; distinguishing case, where necessary, the rate of deduction.

RULE A. (for "Wide" Boats).

Measure:—

The height from the floor to the roof in the middle of the cabin.
The length from the bulkhead to the door of the opposite cupboard.
The width across the cabin at the bulkhead.

The product of the height, length, and width thus measured will represent, purpose of this rule, both the gross and the net cubical capacity or free air space.

RULE B. (for "Narrow" Boats).

Measure:—

The height from the floor to the roof in the middle of the cabin.
The length from the bulkhead to the end of the cabin at the side of the doo
The greatest width from side to side of the boat at the bulkhead.

The product of the height, length, and greatest width thus measured will rep the gross cubical capacity of the cabin.

To obtain the net cubical capacity or free air space of the cabin, deduction fro gross cubical capacity should be made in accordance with the following directions

1. If the cabin have only the following shut-up cupboards or lockers, viz.: a cupboard, a side bed-locker or cupboard, a cross bed-locker or lockers, a cupboard above the cross-bed—
   (*a*) If the height of the cabin be not less than five feet, deduct one-fifth.
   (*b*) If the height of the cabin be less than five feet, deduct one-fourth.
2. If the cabin have only the following shut-up cupboards or lockers, viz.: a cupboard, a cross bed-locker or lockers, and a cupboard above the cross-bed
   (*a*) If the height of the cabin be not less than five feet, deduct one-sixth.
   (*b*) If the height of the cabin be less than five feet, deduct one-eighth.
3. If the cabin have only the following shut-up cupboards or lockers, viz.: a t cupboard and a cupboard above the cross-bed—
   (*a*) If the height of the cabin be not less than five feet, deduct one-tenth.
   (*b*) If the height of the cabin be less than five feet, deduct one-twelfth.

Form B.

Register of Canal Boats.

——— *Registration Authority.*

egistration number of the boat .....
ame of the boat, or if there be no name, the number
hristian name, surname, and address of owner* ....
hristian name and surname of master .....
ourse along which the boat is accustomed or in-
to ply .....
ature of the traffic in which the boat is accustomed
nded to be employed .....
Mode of propulsion;
and whether a "wide" or "narrow" boat;
and whether to be used as a "fly" boat worked
by shifts .....
umber of cabins in the boat.....
imensions and cubical capacity of the cabin or
:—
ule of measurement and of deduction adopted:—†

		ft.	in.
After Cabin ..	Height		
	Length		
	Width		
	Gross cubical capacity ...		
	Net cubical capacity or free air space		
Fore Cabin ..	Height		
	Length		
	Width		
	Gross cubical capacity ...		
	Net cubical capacity or free air space		

0. Date of application for registration .....
1. Date of examination by officer of authority .....
2. Date of registration .....

13. Place to which the boat is registered as belonging, for the purposes of the Elementary Education Acts ....

(*This must be some place which is either a School District, or is part of a School District, and is situate wholly or partly within the jurisdiction of the Registration Authority: See* 40 & 41 *Vict. c.* 60, *s.* 7.)

14. Maximum number of persons for which the boat is registered, subject to the conditions prescribed with regard to the separation of the sexes .....

[NOTE.—*In the case of a boat built after the* 30*th of June*, 1878, *three children under the age of twelve years may be reckoned, as regards the minimum of free air space, as equivalent to two persons above the age of twelve years. In the case of a boat built prior to the* 30*th of June*, 1878, *two children under the age of twelve years may be reckoned as equivalent to one person above the age of twelve years* (*see Art.* 8a *of the Order*).]

As a "fly" boat worked by shifts per

Otherwise than as a "boat—

In after cabin .. per

In fore cabin ... per

15. Observations .....

16. Initials of clerk or chairman of sanitary authority acting as the registration authority .....

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* If the boat is owned by a partnership firm, or by a company or associat corporate or unincorporate, state the name of the firm, company, or association, their principal office or place of business.

† Here state whether Rule A or Rule B [see note to the Form A of Exami Officer's Report] has been adopted in the measurement of the cabin or cabins;— tinguishing in each case, where necessary, the rate of deduction.

FORM C.

Certificate of Registration of a Canal Boat under the Canal Boats Act, 187

Registration Number of Boat. } ——— *Registration Authority.*

WHEREAS application has been made to us, the* acting as the registra authority under the Canal Boats Act, 1877, to register as a dwelling a canal b of which† of is the owner, and which is accustomed or intended to [as a fly boat worked by shifts‡] on the canal whereon the said district abuts;

And whereas we have ascertained that the said boat conforms to the condition registration provided by the regulations of the local government board for number of persons allowed by the said regulations to dwell therein;

Now we, the said* acting as the registration authority, do hereby certif follows, that is to say:—

1. That the boat named§ whereof† of is the owner, has been c registered as a dwelling;

2. That the place to which the said boat has been registered as belonging, for purposes of the Elementary Education Acts, is

3. That the number with which, in pursuance of the statutory provision in behalf, the said boat is required to be numbered is

4. That the distinctive mark or marks with which we require the said boat to marked is or are

5. That in accordance with the provisions contained in the subjoined article of order of the local government board dated the twentieth day of March, one thous eight hundred and seventy-eight, the maximum number of persons for which the boat is registered as a dwelling, is as follows:—

As a fly boat worked by shifts ..... Persons.

Otherwise than as a fly boat—

In after cabin ..... Persons.

In fore cabin ..... Persons.

The Article before referred to is as follows :—

r the purpose of fixing the number, age, and sex of the persons who may be ed to dwell in a canal boat, which conforms to the conditions of registration ded by these regulations, and which shall in pursuance of the statutory provision it behalf, have been registered as a dwelling, the following rules shall apply—

Subject to the conditions hereinafter prescribed with respect to the separation of the sexes, the number of persons who may be allowed to dwell in the boat shall be such that in the cabin or cabins of the boat there shall be not less than 60 cubic feet of free air space for each person above the age of 12 years, and not less than 40 cubic feet of free air space for each child under the age of 12 years:

Provided that in the case of a boat built prior to the thirtieth day of June, one thousand eight hundred and seventy-eight, the free air space for each child under the age of 12 years shall be deemed sufficient if it is not less than 30 cubic feet.

Provided also, that in the case of a boat registered as a "fly" boat, and worked by shifts, by four persons above the age of 12 years, there shall be not less than 180 cubic feet of free air space in any cabin occupied as a sleeping place by any two of such persons at one and the same time.

‖ A cabin occupied as a sleeping place by a husband and wife shall not, at any time while in such occupation, be occupied as a sleeping place by any other person of the female sex above the age of 12 years, or by any other person of the male sex above the age of 14 years:

Provided that in the case of a boat built prior to the thirtieth day of June, one thousand eight hundred and seventy-eight, a cabin occupied as a sleeping place by a husband and wife may be occupied by one other person of the male sex above the age of fourteen years, subject to the following conditions—

i. That the cabin be not occupied as a sleeping place by any other person than those above mentioned:

ii. That the part of the cabin which may be used as a sleeping place by the husband and wife shall, at all times, while in actual use, be effectually separated from the part used as a sleeping place by the other occupant of the cabin by means of a sliding or otherwise moveable screen or partition of wood or other solid material, so constructed or placed as to provide for efficient ventilation.

A cabin occupied as a sleeping place by a person of the male sex above the age of 14 years shall not, at any time, be occupied as a sleeping place by a person of the female sex above the age of 12 years, unless she be the wife of the male occupant, or of one of the male occupants in any case within the proviso to rule (b).

ren at **under the common seal of the
acting as the registration authority, this day
of in the year one thousand eight hundred
and

——— Clerk to the ———

---

* Here insert the description of the sanitary authority and the name of their district.
† If the boat is owned by a partnership firm, or by a company or association, corpo- e or unincorporate, state the name of the firm, company, or association, and their ncipal office or place of business.
‡ If it is not a fly boat, strike out these words.
‖ Or "numbered," if the boat be not named.
** Or where the authority have no common seal, substitute "under the hand of ree members of the

---

Given under the seal of office of the local government board, this twentieth day of March, in the year one thousand eight hundred and seventy-eight

G. Sclater-Booth, *President.*

Thos. Salt, *Secretary.*

REGULATIONS *made by the Local Government Board under the Act*

CANAL BOATS: REGISTRATION AUTHORITIES.

To the several urban and rural sanitary authorities named in the schedul annexed:

To the vestry of the parish of Paddington, in the county of Middlesex:-
To the vestry of the parish of Rotherhithe, in the county of Surrey:—
To the Board of Works for the Limehouse district:—
And to all others whom it may concern.

WHEREAS by sect. 7 and sect. 9 of the Canal Boats Act, 1877 (40 & 41 Vict is enacted as follows:—

Sect. 7. "For the purpose of the registration of canal boats the r authority shall be such one or more of the sanitary authorities havi abutting on a canal as may from time to time be prescribed by regula local government board."

Sect. 9. "An order of the local government board, making, revoking, any regulation in pursuance of this act, shall not come into force until in a complete form as settled and approved by the board for forty days b houses of parliament during the session of parliament."

Now we, the local government board, in pursuance of the powers given by t in that behalf, hereby order that on the thirtieth day of June, one thous hundred and seventy-eight, the following regulations shall come into force, thenceforth continue in force until revoked.

Registration Authorities.

I. For the purpose of the registration of canal boats under the Canal B 1877, the registration authority in respect of each of the canals specified i column of the schedule to this order, against the name of which the name of than one sanitary authority is entered in the second column of the said sched be the sanitary authority whose name is so entered; and the registration auth respect of each of the canals specified in the said first column, against the name the names of two or more sanitary authorities are entered in the said second shall be the sanitary authorities whose names are so entered.

II. Where any boat is accustomed or intended to ply on a canal on whic more districts abut, or on two or more canals, it shall not be necessary that s should be registered with more than one registration authority.

Interpretation of Terms.

III. In these regulations, unless the context otherwise requires, words have t meaning as in the Canal Boats Act, 1877.

SCHEDULE.

1. CANALS.	2. REGISTRATION AUTHORITIES.
Aberdare Canal	The Aberdare Urban Sanitary Authority.
Aire and Calder Navigation	The Leeds Urban Sanitary Authority. The Goole Urban Sanitary Authority. The Wakefield Urban Sanitary Authority. The Mirfield Urban Sanitary Authority.
Ancholme River	The Brigg Urban Sanitary Authority.
Arun River	The Arundel Urban Sanitary Authority. The Littlehampton Urban Sanitary Author
Ashby-de-la-Zouch Canal	The Hinckley Urban Sanitary Authority.
Avon River	The Evesham Urban Sanitary Authority.
Barnsley Canal	The Barnsley Urban Sanitary Authority.
Basingstoke Canal	The Basingstoke Urban Sanitary Authority.
Birmingham Canal	The Birmingham Urban Sanitary Authority.
Birmingham and Fazeley Canal	The Birmingham Urban Sanitary Authority.

1. Canals.	2. Registration Authorities.
...gham and Warwick Junc- Canal	The Birmingham Urban Sanitary Authority. The Warwick Urban Sanitary Authority.
...rd Canal	The Bradford Urban Sanitary Authority. The Leeds Urban Sanitary Authority.
...ock and Abergavenny Canal	The Brecknock Urban Sanitary Authority.
...water Navigation	The Runcorn Urban Sanitary Authority. The Leigh Urban Sanitary Authority. The Manchester Urban Sanitary Authority.
...water and Taunton Canal	The Bridgewater Urban Sanitary Authority. The Taunton Urban Sanitary Authority.
River	The Great Yarmouth Urban Sanitary Authority.
...r and Hebble Navigation	The Wakefield Urban Sanitary Authority.
...rfield and Worksop Canal	The Chesterfield Urban Sanitary Authority.
...try Canal	The Coventry Urban Sanitary Authority.
...ford Canal	The Rural Sanitary Authority of the Belper Union.
...e and Dove Canal	The Wombwell Urban Sanitary Authority.
River	The Chester Urban Sanitary Authority.
...y Canal	The Derby Urban Sanitary Authority.
...ent River	The Malton Urban Sanitary Authority.
...ld Canal	The Great Driffield Urban Sanitary Authority.
...wich Canal	The Droitwich Urban Sanitary Authority.
...wich Junction Canal	The Droitwich Urban Sanitary Authority.
Navigation	The Doncaster Urban Sanitary Authority.
...ash Canal	The Ilkeston Urban Sanitary Authority.
...dyke Navigation	The Lincoln Urban Sanitary Authority.
Navigation	The York Urban Sanitary Authority.
...rganshire Canal	The Cardiff Urban Sanitary Authority. The Merthyr Tydfil Urban Sanitary Authority.
...cester and Berkeley Canal	The Gloucester Urban Sanitary Authority.
...al Junction Canal	The Vestry of the parish of Paddington. The Brentford Urban Sanitary Authority. The Tring Urban Sanitary Authority. The Aylesbury Urban Sanitary Authority. The Buckingham Urban Sanitary Authority.
...nd Surrey Canal	The Vestry of the Parish of Rotherhithe.
...tham Canal	The Grantham Urban Sanitary Authority.
...ncastle Navigation	The Rural Sanitary Authority of the Horncastle Union.
...net and Avon Canal	The Reading Urban Sanitary Authority. The Newbury Urban Sanitary Authority. The Devizes Urban Sanitary Authority. The Bath Urban Sanitary Authority.
...caster Canal	The Kendal Urban Sanitary Authority. The Lancaster Urban Sanitary Authority. The Preston Urban Sanitary Authority.
...ds and Liverpool Canal	The Liverpool Urban Sanitary Authority. The Wigan Urban Sanitary Authority. The Blackburn Urban Sanitary Authority. The Burnley Urban Sanitary Authority. The Leeds Urban Sanitary Authority.
...icester Navigation	The Leicester Urban Sanitary Authority.
...icestershire and Northampton-shire Union Canal	The Leicester Urban Sanitary Authority.
...ughborough and Soar Navigation	The Loughborough Urban Sanitary Authority.
...th Canal	The Louth Urban Sanitary Authority.
...erlesfield Canal	The Marple Urban Sanitary Authority.
...nchester, Ashton-under-Lyne, and Oldham Canal	The Manchester Urban Sanitary Authority.

1. Canals.	2. Registration Authorities
Medway Lower Navigation	The Maidstone Urban Sanitary Authori The Rochester Urban Sanitary Authori
Medway Upper Navigation	The Maidstone Urban Sanitary Authori The Tonbridge Urban Sanitary Authori
Mersey and Irwell Navigation	The Runcorn Urban Sanitary Authority
Neath Canal	The Neath Urban Sanitary Authority.
Nene River	The Peterborough Urban Sanitary Auth The Wisbech Urban Sanitary Authority
Norwich and Lowestoft Navigation	The Lowestoft Urban Sanitary Authorit
Nottingham Canal	The Nottingham Urban Sanitary Author
Nutbrooke Canal	The Ilkeston Urban Sanitary Authority.
Ouze River.....	The Goole Urban Sanitary Authority. The York Urban Sanitary Authority.
Oxford Canal.....	The Oxford Urban Sanitary Authority. The Banbury Urban Sanitary Authority.
Peak Forest Canal.....	The Marple Urban Sanitary Authority.
Regent's Canal	The Vestry of the Parish of Paddington. The Board of Works for the Limehouse I
Rochdale Canal.....	The Manchester Urban Sanitary Authorit The Rochdale Urban Sanitary Authority.
Saint Helen's Canal.....	The Widnes Urban Sanitary Authority.
Severn Navigation	The Gloucester Urban Sanitary Authority The Worcester Urban Sanitary Authority
Sheffield Canal	The Sheffield Urban Sanitary Authority.
Shropshire Union Canal	The Chester Urban Sanitary Authority. The Nantwich Urban Sanitary Authority. The Shrewsbury Urban Sanitary Authority The Ellesmere Urban Sanitary Authority. The Welshpool Urban Sanitary Authority.
Staffordshire and Worcestershire Canal	The Kidderminster Urban Sanitary Autho The Wolverhampton Urban Sanitary Auth
Stort Navigation	The Bishop Stortford Urban Sanitary Aut
Stourbridge Canal	The Brierley Hill Urban Sanitary Authori
Stratford-upon-Avon Canal	The Stratford-upon-Avon Urban Sanitar thority.
Stroudwater Navigation	The Stroud Urban Sanitary Authority.
Swansea Canal	The Swansea Urban Sanitary Authority.
Tennant Canal	The Neath Urban Sanitary Authority.
Thames and Severn Canal	The Stroud Urban Sanitary Authority.
Thames River	The Oxford Urban Sanitary Authority. The Abingdon Urban Sanitary Authority. The Reading Urban Sanitary Authority. The Brentford Urban Sanitary Authority.
Trent River	The Gainsborough Urban Sanitary Authori
Trent and Mersey Canal.....	The Stoke-upon-Trent Urban Sanitary Auth The Rugeley Urban Sanitary Authority.
Ure Navigation.....	The Ripon Urban Sanitary Authority.
Warwick and Birmingham Canal..	The Birmingham Urban Sanitary Authority.
Warwick and Napton Canal	The Warwick Urban Sanitary Authority. The Royal Leamington Spa Urban San Authority.
Waveney River.....	The Beccles Urban Sanitary Authority.
Welland River	The Spalding Urban Sanitary Authority.
Wensum River	The Norwich Urban Sanitary Authority.
Wiltshire and Berkshire Canal ..	The Calne Urban Sanitary Authority. The Chippenham Urban Sanitary Authority.

1. Canals.	2. Registration Authorities.
bech Canal	The Wisbech Urban Sanitary Authority.
ham Navigation	The Boston Urban Sanitary Authority. The Lincoln Urban Sanitary Authority.
cester and Birmingham Canal .	The Birmingham Urban Sanitary Authority.
River	The Great Yarmouth Urban Sanitary Authority. The Norwich Urban Sanitary Authority.

iven under the Seal of Office of the Local Government Board, this Seventeenth day lay, in the year One thousand eight hundred and seventy-eight.

G. Sclater-Booth, *President.*

mos. Salt, *Secretary.*

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ular Letter of the Local Government Board with reference to the Canal Boats Act, 1877, *and the Regulations made thereunder.*

Local Government Board,
Whitehall, S. W.,
22nd July, 1878.

I am directed by the local government board to forward herewith a copy of their der of the 17th of May, 1878, prescribing the registration authorities for the purposes the Canal Boats Act, 1877, and also a copy of their order of the 20th of March, 1878, uprising regulations under sect. 2 of that act.

The regulations comprised in the orders came into force on the 30th day of June, 78: and, as a consequence of the provision in sect. 1 of the act, a canal boat may t, after the expiration of six months from that date, be used as a dwelling until it s been registered in accordance with the act.

The board trust that the following observations may aid the registration authority their consideration of the details of the act and of the regulations.

Registration.

The boat owners have the choice of several authorities with whom to register, and e board consider that registration of each boat with some one authority will be a ficient compliance with the requirements of the act, whether the boat for which istration is sought be accustomed or intended to ply on one or more canals. Where e boat passes from the canal on which the district of the authority with whom it has en registered abuts, its original registry will be recognized as operative on other nals whereon it may ply.

Places to which Boats should be registered as belonging.

It will be observed that sect. 3 of the act requires that every canal boat, when gistered, shall be lettered, marked, and numbered in some conspicuous manner (as ected by the regulations made under the act), and that "such lettering, marking, d numbering, shall include the word 'registered,' and the 'name of the place to hich the boat is registered as belonging, and the registered number.'"

As regards the name of the place to which is to be included in the lettering, mark-ng, and numbering of the boat, the terms of the above-cited enactment have to be considered in connection with a provision in sect. 7. It is there enacted that, with the iew of determining the place to which a canal boat belongs "for the purpose of the Elementary Education Acts, 1870, 1873, and 1876," the registration authority shall register any canal boat in respect of which an application is made for registration, "as belonging to some place which is either a school district or is part of a school district, and is situate wholly or partly within the jurisdiction of the registration authority with which it is registered."

In some cases it may happen that the designation of the school district or part of a school district is not identical with that of the registration authority.

The omission from sect. 3 of the words "for the purpose of the Elementa tion Acts, 1870, 1873, and 1876," which are found in sect. 7, shows that th the place required by sect. 3 to be painted on the boat is that of the distr registration authority and not that of the school district or part of a school di

In every case, however, the place to which the boat is registered as belo the purposes specified in sects. 6 and 7 of the act should appear in the cer registration; and for this requirement it will be seen that the board have m vision in their Form (C.) of certificate in the schedule to the order of the 20th 1878.

REGULATIONS OF THE 20TH MARCH, 1878.

(a) *Application for Registry.*

Part I. of the Order of the 20th March last comprises regulations for the reg of canal boats under the act, including certificates of registration, and the fee nection with such registration.

The first step in the process of registration will be taken by the owner. H have the opportunity, when making his application to the registration auth specifying the time and place for the examination of the boat. If the time or specified be inconvenient to the registration authority, they will, doubtless, in owner to that effect, and some other time or place will be fixed by mutual cons

Under Art. 1 the owner, besides informing the registration authority of a t place at which the boat may be examined, is to furnish such other information authority may require in relation thereto.

The board have not included a form of application in their order, since th assumed that the particulars will vary with local circumstances. But they thi delay in the preliminary arrangements, will frequently be obviated if the auth whom an owner may apply for registration are in a position to furnish him printed statement of the points upon which they may desire information proceeding with the examination of the boat.

(b) *The Examining Officer and his Report.*

Art. 2 provides for the appointment or employment, remuneration and duties person whom the registration authority may select to examine and report upo boats, the owners whereof have applied for registration.

The report of this officer is to be in the Form A. in the schedule to the order. to be submitted to the registration authority at their next ordinary meeting o special meeting to be called for the purpose.

Before adverting to the details of the form of report, the board have to attention to a provision in the act that renders the information which the repor supply of special importance. By sect. 2 it is enacted that the registration aut shall register every canal boat which conforms to the conditions of registration pr by the regulations of the board for the number of persons allowed by those regul to dwell therein.

The statute thus recognizes the act of registration as a function of the auth themselves, and one which they cannot delegate to their officers. It also imposes the authorities an obligation to register in every case where the boat conforms t conditions of registration.

Hence it is obvious that the registration authority, when required to decide whether they will register or refuse to register a boat, must have before them com information with regard to all the details which are comprised in the pres conditions of registration.

This information the examining officer's report (Form A.) is intended to supply.

It will be noticed that the form of report requires the examining officer to sta name, or if there be no name, the number of the boat. This information is rend necessary by the terms of sect. 3 of the act, in accordance with which the two ce cates of registration should identify the owner and the boat; and, as the board that in some instances the boats bear numbers and are unnamed, the number, w will be that assigned by the owner, and will be distinct from the number assigned the registration authority, will be a suitable mode of identification.

In describing the nature of the traffic in which the boat is accustomed or inte to be employed, the examining officer should be careful to ascertain whether the bo intended to carry any foul or offensive cargo. For a boat so used, the special

has mentioned in 10 (*g*) under the heading "description of the construction, ture and fittings of the boat," &c., will be indispensable.

stating whether the boat is a "wide" or "narrow" boat, the examining officer ll bear in mind the definitions in Art. 14 of the Order; and he should also be ll to note whether the boat is to be used as a "fly" boat worked by shifts, for to boats the second proviso to Art. 8 (a) will apply.

(c) *The Register of Canal Boats.*

hen the report of the examining officer has been submitted to the registration rity they will have to determine from the information before them whether the conforms to the conditions of registration which are detailed in Art. 3 of the :

here these conditions are complied with it will be incumbent upon the authority to the boat to be registered as a dwelling for the number of persons allowed by the ations to dwell therein. The form of register will be found in the schedule to rder.

In regard to this form it may here be sufficient to observe that Art. 4 provides the owner of a registered boat shall, from time to time, on every new appointment master, notify in writing to the registration authority the christian name and me of the master newly appointed; and that the information thus furnished ll be duly recorded in the register, with a note of the date at which it was received e authority.

(d) *Fees in connection with Registration.*

t. 6 prescribes the sum of 5*s.* as a fee in connection with the registration of a ; and this fee must be paid by the owner before the delivery of the certificates of tration. By sect. 11 of the act it is provided that all fees paid in respect of tration shall be carried to the fund out of which the expenses incurred in the tion of the act by the registration authority are declared to be payable. The which should be credited with the fees so paid will be determined by the provisions st. 3 of the act.

(e) *Certificates of Registration.*

payment of the authorized fee the owner will be entitled under sect. 3 of the act ceive two certificates of registration. These certificates, by the terms of the t. should identify the owner and the boat, should state the place to which the is registered as belonging, and the number, age, and sex of the persons allowed well in the boat, and such other particulars as may be provided by the regulations e board, or may seem fit to the registration authority.

Art. 5 of their Order, the board have provided that each of the two certificates , in addition to such other particulars as may seem fit to the registration authority, in the particulars set forth in the Form C. in the schedule.

sect. 3 of the act it is enacted that the master shall have the care of one of the ficates of registration. It will be the duty of the master under sect. 5, if required person duly authorized by a registration or sanitary authority, or by a justice of peace, to produce to such person the certificate of registry (if any) of the boat, and it him to examine and copy the same. A refusal to comply with such requisition be deemed an obstruction of the person making the requisition, and for the offence bstruction a fine not exceeding 40*s.* may be imposed.

urther, with regard to illegal detention by the master of the certificate of registry, ence may be made to the enactment in sect. 10.

(f) *Lettering, Marking, and Numbering of Registered Boats.*

art II. of the Board's Order of the 20th March, 1878, contains regulations for the ering, marking, and numbering of registered boats.

y sect. 3 of the act it is enacted that every canal boat when registered shall be tered, marked and numbered in some conspicuous manner, as directed by the regu- ns, and that such lettering, marking and numbering, shall include the word gistered," and the name of the place to which the boat is registered as belonging, the registered number.

It will be the duty of the owner of the boat, forthwith upon the receipt of the tificates of registration, to cause the boat to be lettered, marked and numbered in

accordance with the regulations. And by sect. 3 of the act, it is enacted that any bo not lettered marked and numbered in conformity with that section, or having t letter, mark or number altered, defaced or obliterated, shall be deemed for the purpos of the act to be an unregistered boat.

(g) *Number, Age and Sex of Persons who may be allowed to dwell in a Canal Boat.*

In Part III. of the Order are comprised regulations for fixing the number, age a sex of the persons who may be allowed to dwell in a canal boat, having regard to t cubic space, ventilation, provision for the separation of the sexes, general healthin and convenience of accommodation of the boat.

The regulations prescribing the conditions of registration have been framed wi especial reference to the requirements which by sect. 2 (3) of the act are recognized the fundamental principles of the rules by which the number, age and sex of the perso who may be allowed to dwell in a canal boat are to be determined. The effect of t regulations in Art. 3 will be to ensure that in every registered canal boat the free space of any cabin which may be intended to be used as a dwelling shall not be l than a certain specified minimum, and also that provision shall be made for ventilatio general healthiness and convenience of accommodation.

Dealing with boats which conform to these conditions, the regulations in Part I prescribe rules whereby the number, age and sex of the persons who may be allow to dwell in a boat may be fixed so as to secure a certain minimum of free air space each person and to provide for the separation of the sexes.

Clause (a) of Art. 8 specifies the minimum proportion of free air space for each occ pant of a cabin. For every person above the age of 12 years there must not be l than 60 cubic feet, and for each child under the age of 12 years not less than 40 cu feet.

This general rule, in its practical application, will be subject to the conditions clauses (b) and (c) with respect to the separation of sexes. Moreover, the two provis to clause (a) will operate in the one case to relax, and in the other to render m stringent the requirement as to the minimum allowance of free air space in cert classes of boats.

In the first proviso the general requirement of a minimum of 40 cubic feet for e child under the age of 12 years is modified in the case of boats built prior to the d when the regulations came into force. In the case of such boats a minimum of 30 cu feet is to be deemed sufficient.

The second proviso to clause (a) has reference to the case of "fly" boats worked shifts by four persons above the age of 12 years. In this case, in consequence of conditions under which the crew work and sleep, a minimum free air space of 180 cu feet in any cabin occupied at one and the same time as a sleeping place by any two the four persons is required.

It has already been pointed out that the rule determining the number of occupa by reference to the air space of the cabin is to be applied subject to the conditi prescribed by the regulations with respect to the separation of the sexes.

The general rules under this head are comprised in the first paragraph of clause and in clause (c).

The first paragraph of clause (b) applies to a cabin occupied as a sleeping-place b husband and wife. With the exception hereafter to be noticed, a cabin occupied b married couple can only receive as additional occupants children whose ages in the c of girls must not exceed 12, and, in the case of boys, 14 years.

Clause (c) will prohibit the simultaneous use of a cabin as a sleeping-place by a m above 14 years of age and an unmarried female above 12 years of age.

To the first of these rules there is an exception under the circumstances and con tions specified in the proviso to clause (b).

By sect. 1 of the act it is enacted that a canal boat shall be used as a dwelling o for the number of persons of the age and sex for which it is registered, and that i canal boat is used as a dwelling in contravention of the act, the master and also owner, if he is in fault, shall each be liable to a fine not exceeding 20*s*. for each oc sion on which the boat is so used.

(h) *Cleanliness and Habitable Condition of Canal Boats.*

Arts. 9, 10, and 11, in Part IV., of the Board's Order, comprise regulations for p moting cleanliness in, and providing for the habitable condition of, canal boats. A requires the owner to renew thoroughly once at least in every three years the pain the interior of every cabin which may be used as a dwelling. Art. 10 provides for

al of bilge water by pumping at frequent intervals. Art. 11 renders it the duty master to cause every cabin which may be used as a dwelling to be kept at all in a cleanly and habitable condition.

(i) *Prevention of the spread of Infectious Diseases by Canal Boats.*

t V. of the Order contains regulations for preventing the spread of infectious s by canal boats.

ere a person on a canal boat is seriously ill, or is evidently suffering from an ious disease, Art. 12 will require the master to inform the proper authority and rner.

the boat is proceeding on a journey the master must as soon as practicable give ation to the sanitary authority through whose district the boat is passing. the boat arrives at its port or place of destination the master is further to the sanitary authority within whose district the port or place is situated, and he owner. Where the case occurs at a time when the boat is at its port or place stination, it will be the duty of the master forthwith to inform the sanitary rity within whose district the port or place is situate, and also the owner of the The owner on receipt of information from the master is forthwith to give notice e sanitary authority having jurisdiction in the place to which the boat may have registered as belonging.

ably by arrangement with the owners, lessees, or undertakers of each canal the tary authorities may be enabled to furnish the several lock-keepers or other persons loyed at fixed points along the canal with instructions for the guidance of masters may have occasion to give the notices required by Art. 12 of the Board's Order. ll probably be found convenient to print these instructions, and to supply each -keeper from time to time with a sufficient number of copies for the use of masters ats. To meet the cases in which the master may be able to communicate in ing the information required by Art. 12, printed forms of notice to be filled up by aster may be appended to the instructions. The name and address of the person hom the notice is to be transmitted, whether by messenger or through the post, ld be printed on the form.

While it may be expected that in the majority of instances the obligation imposed, Art. 12 of the Board's Order, upon the masters and owners of boats will be fulfilled the due notification of cases of infectious disease, it will be seen, on reference to t. 4 of the act, that information from other sources will also be sufficient to justify ation of the sanitary authority under that enactment. In some instances this mation will probably be obtained through the means indicated in sect. 5.

From whatever source the sanitary authority may obtain information of the occurce of a case of infectious disease in a canal boat, it should be observed that where, der sect. 4, they exercise the power of detaining the boat, they should, in accordance h the requirements of Art. 13 of the Board's Order, before allowing the boat to sed upon its journey, procure from their medical officer of health, or from some er legally qualified practitioner, a certificate to the effect that the boat has been ly cleansed and disinfected. This certificate is to be delivered to the master of the t; and for it the sanitary authority may pay a reasonable remuneration.

(j) *Interpretation of Terms.*

With regard to Part VI. of the Board's Order, which comprises the interpretation ses (Art. 14), it may be sufficient to refer to the series of definitions in sect. 14 of e act, which are thereby rendered applicable to the terms used in the Order.

Supply of Copies of Regulations to Persons interested.

The second paragraph of sect. 9 of the act is as follows:—

"The Local Government Board shall take steps for enabling all persons interested in ny regulations made by that board in pursuance of this act to obtain copies thereof at such places in the neighbourhood of canals as the Local Government Board may prescribe, on payment of such sum not exceeding sixpence as may be prescribed by that board."

It appears to the board that the offices of the several sanitary authorities whom they have constituted registration authorities may properly be prescribed as the places at which copies of the regulations may be obtained; and the board will prescribe such

places accordingly. If, however, the authority in any particular instance sh some other place to be more convenient or desirable, the board will be ready t any representation that may be made to them on the subject.

Notice should be given, in the neighbourhood, of the place and price at wh of the regulations may be procured by the persons interested.

With regard to the price, the board will prescribe that the sum to be paid : of the Order of 20th March, 1878, with a copy of the Order of 17th May, 187 fourpence.

Copies of the regulations, as laid on the table of each of the Houses of P may be obtained from Hansard's Office for the sale of parliamentary paper Great Queen Street, London, W.C.; copies of the Canal Boats Act, 1877 obtained either from Hansard's Office or from the Queen's printers; and copi circular may be obtained from the agents of her Majesty's Stationery Office.

I am, Sir,

Your obedient servant,

To the Clerk to the Sanitary Authority. JOHN LAMBERT, 8

CONSTABLES FOR COUNTIES—See "County Police.

CONSTABLES (BOROUGH, SPECIAL).

5 & 6 Will. 4, c. 76.

The ordinary constables of boroughs are appointed by th committee chosen from the town councilmen of the boroug Will. 4, c. 76, s. 76);—but by sect. 83 annually, in the month of [at a special petty sessions] two or more justices of borough appoint special constables to act whensoever required by wa any one justice. [Forms, Nos. 1—4, Oke's "*Formulist*," 6 e 634, 635.] The [Declaration, 31 & 32 Vict. c. 72, s. 12, sub- is the same as that for special constables for counties unde Will. 4, c. 41, tit. "*Constables (Special)*" *post*, Chap. II.

CONSTABLES (HIGH).

7 & 8 Vict. c. 33.

Appointment of.] By 7 & 8 Vict. c. 33, s. 1, high cons before appointed at a quarter sessions, are to be appointe special sessions for the division, held for the purpose of h appeals against poor's rates, or at any adjournment there tit. "*Poor*," as to the special sessions);—and the high stable, when appointed, is to take only the [Declaration 31 Vict. c. 72, s. 12, sub-s. 4, *Note* 5] for the due execution office, either at the place of appointment, or before some one j of the county. The office appears to be an annual one.

32 & 33 Vict. c. 47.

When Vacancy in Office not to be filled up.] By the "High stables Act, 1869," 32 & 33 Vict. c. 47, passed 2nd August, which recites, that "it is expedient to abolish the office of constable in England and Wales, except in certain cases, a make provision for the discharge of the duties heretofore perfor by such constables," it is enacted (*inter alia*) by sect. 2, "It sha

5 The 31 & 32 Vict. c. 72, here referred to, is "The Promissory O Act, 1868," substituting a declaration for an oath in a variety of c the provisions of which act are set out in tit. "*Oaths*" in *Chap. II* this Part, *post*.

ity of the justices of the peace for every county in quarter ns assembled in the month of January next after the passing is act to consider and determine whether it is necessary that the of high constable 6 of each hundred or other like district in their jurisdiction should be continued,—and whenever such ns so assembled as aforesaid shall have determined in the case y such hundred or other like district that it is not necessary the office of high constable should be continued, they shall send of such determination to the person or persons in whom the intment of such high constable is vested,—and on the occur- thereafter of any vacancy in such office such vacancy shall not lled up,—but this provision shall not apply to the case of any constable who is by law or custom returning officer at any par- ntary or municipal election, or is charged with the supervision register of electors, or in whom is vested by virtue of his any real property." By sect. 6, "if it shall appear to the jus- assembled at any court of quarter sessions that any high con- within the jurisdiction of such court, holding office for life or g good behaviour, has suffered or is likely to suffer by reason passing of this act any loss of emoluments heretofore charge- upon the county stock or rate, it shall be lawful for such justices the application of any such constable, notice having been given previous meeting of the court, to order that such sum shall be ally or quarterly paid to such constable during his life, and ged upon the county stock or rate as shall seem to them reason- , regard being had to the cessation of any duties in respect of ch such emoluments had theretofore been received by him, and y other circumstances in the case; and in the case of any such stable holding office as aforesaid, and remunerated by salary con- nal upon the discharge of the duties of his office, the annual to be awarded him by such order shall not be less than two- ds of such salary."

32 & 33 Vict. c. 47.

CONSTABLES (LIBERTIES).

By 7 & 8 Vict. c. 52, s. 1, all the provisions of the 5 & 6 Vict. 109 [title "*Constables (Parochial)*," *infra*], are extended and plied to every liberty having a separate commission of the peace, not being an incorporated borough, and to the justices of such rty, as if such liberty were a county of itself. Sect. 2 confirms rious appointments of constables of liberties under colour of the 6 Vict. c. 109.

7 & 8 Vict. c. 52.

Interpretation of Term "High Constable."] By 32 & 33 Vict. c. 47, 1, "For the purposes of this act the words 'high constable' shall lude any constable of any hundred or other like district, and any ser discharging the duties usually performed by high constables by atever name such officer shall be called."

CONSTABLES (PAROCHIAL).

35 & 36 Vict. c. 92.

By the 35 & 36 Vict. c. 92, entitled "An Act to render un the General Appointment of Parish Constables," which r the establishment of an efficient police in the counties o and Wales has rendered the general appointment of pa stables unnecessary; parish constables are not to be except in the peculiar cases mentioned in such statute.

Certain Parochial Constables may be appointed by Quarter By sect. 2 it is enacted, that "whenever the court of g quarter sessions of any county shall by resolution determi is necessary, with a view to the preservation of the pea proper discharge of public business therein, that one or m constables should be appointed for any parish within the ju of such court, such constable or constables shall, until resolution shall have been rescinded, be and continue pointed for such parish according to the provisions of th the appointment of parish constables then in force." section contains provisions for carrying out such resolutio

Parish Vestries may determine upon having a paid Co Constables.] The 4th section enacts, that "the vestry of a not included wholly or in part within a borough, after du may at any time resolve that one or more parish constables appointed for their parish, and in such resolution may fix th of salary to be paid to him or them, which salary shall be pa the poor rate of the said parish, and a copy of such resolution delivered by one of the overseers or some other officer of th to the justices of the petty sessional division in which the situated, and such justices may appoint, by warrant under and seal of two of them, some fit and competent person or willing to serve the office to be the constable or constables said parish, who shall hold his or their office until he or th resign or be dismissed for misconduct or incompetency justices of the said division, or the vestry shall determine continue the appointment of a constable at the expiratio less than six months from the day on which a copy of such tion shall be delivered to the justices of the said division, a the vestry shall come to such determination the justices shal the appointment upon the occurrence of any vacancy in the

Two or more parishes may be united for the appointmen the provisions of sect. 5.

Duties, Powers and Immunities of the Constables.] The 7th subjects these constables to the authority of the chief co of the county, and they are to be clothed with all the powers, immunities, liabilities and incidents of parish constables.

There are other sections applicable to the subject, which, ho

affect magisterial proceedings, and to which it is unnecessary r to advert. 35 & 36 Vict. c. 92.

CONSTABLES (SPECIAL).

the provisions of the 1 & 2 Will. 4, c. 41, including those g to matters to be done at a "special sessions," have for tance been placed in Chap. II. of this Part under a similar this.]

CONTAGIOUS DISEASES (ANIMALS) ACT, 1878.

"Sheep and Cattle (or Cattle Plague)," *post.*

GAME.

tices' *Licences to Persons to deal in Game.*] By 1 & 2 Will. 4, s. 18, it is enacted,—"That the justices of the peace of every riding, division, liberty, franchise, city or town, *shall* hold al session in the division or district for which they usually . . . in the month of July [and 'also at any time, and from time as often as they shall see fit after the said month of every year,' 2 & 3 Vict. c. 35, s. 4], for the purpose of g licences to deal in game, of the holding of which session ays' notice shall be given to each of the justices acting for vision or district, 7—and the majority of the justices ed at such session or at some adjournment thereof, not ss than two, are hereby authorized (if they shall think grant, under their hands, to any person being a house- keeper of a shop or stall within such division or district,— being an innkeeper or victualler, or licensed to sell beer by or being the owner, guard or driver of any mail coach or hicle employed in the conveyance of the mails of letters, or age coach, stage waggon, van, or other public conveyance, ing a carrier or higgler,—nor being in the employment of the above-mentioned persons,—a licence according to the the schedule (A.) annexed to this act [*vide* Oke's '*Formulist*,' p. 644, for the form], empowering the person to whom such shall be so granted to buy game at any place from any ho may lawfully sell game by virtue of this act, and also he same at *one* house, shop or stall only, kept by him; that every person, while so licensed to deal in game as , shall affix to some part of the outside of the front of his hop or stall, and shall there keep a board, having thereon, legible characters, his christian name and surname, with the following words (that is to say), 'Licensed to 1 & 2 Will. 4, c. 32; 2 & 3 Vict. c. 35.

special session will be convened by a notice from one justice to such of the other justices of the division, as provided by 7 & 8 33, s. 7, *ante*, p. 1186.

1 & 2 Will. 4, c. 32; 2 & 3 Vict. c. 35.

deal in game;'"—and by 2 & 3 Vict. c. 35, s. 4, "Every licenc deal in game, at whatever time the same . . . . shall be gran shall continue in force from the granting thereof until the 1st of July then next following, and no longer." By 1 & 2 Will c. 32, s. 21, "Persons being in partnership, and carrying on t business at one house, shop or stall only, shall not be obliged, virtue of this act, to take out more than one licence in any one y to authorize them to deal in game at such house, shop or stall."

Licence void on Conviction.] By 1 & 2 Will. 4, c. 32, s. 22, "if person licensed by virtue of this act to deal in game, shall, dur the period of such licence, be convicted of any offence whate against this act, such licence shall thereupon become null and vo [See Offences by Licensed Dealers, under ss. 4, 28, tit. "*Gam* Vol. I. Offences 26—32, pp. 451, 452.]

23 & 24 Vict. c. 90.

Licence from Excise also.] By 23 & 24 Vict. c. 90, s. 14, "Ev person who shall have obtained any licence to deal in game from justices of the peace, under the provisions of the said two sev acts [1 & 2 Will. 4, c. 32, and 2 & 3 Vict. c. 35], in the preced clause mentioned, shall annually, and during the continuanc such licence, and before he shall be empowered to deal in ga under such licence, obtain a further licence to deal in game un this act, on payment of the duty hereby charged thereon,—an any person obtaining a licence from the said justices as afore shall purchase or sell or otherwise deal in game before he sl obtain a licence to deal in game under the provisions of this act, shall forfeit the sum of twenty pounds."[8] By s. 15, "No lic to deal in game shall be granted under the provisions of this to any person, except upon the production of a licence for the purpose duly granted to him by the justices of the peace, as afo said, and then in force."

GAOLS—See PRISONS.

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24 & 25 Vict. c. 91, s. 17.

[8] By "The Inland Revenue Act," 24 & 25 Vict. c. 91, s. 17, wh after reciting that by the section in the text [23 & 24 Vict. c. 90, s. 1 penalty of twenty pounds is imposed upon any person who shall ob a licence to deal in game from the justices of the peace under the provisi of the 1 & 2 Will. 4, c. 32, and 2 & 3 Vict. c. 35, therein referred to, who shall purchase or sell, or otherwise deal in game before he shall ob a licence to deal in game under the provisions of the 23 & 24 Vict. c. enacts,—"That the said penalty shall be incurred by every person w under the provisions of the said acts so referred to as aforesaid, *ough obtain* a licence from the justices of the peace to deal in game, and shall purchase or sell or otherwise deal in game before he shall obtai proper excise licence under the provisions of the said first-mentioned [*i. e.* 23 & 24 Vict. c. 90,] whether he shall have obtained a licence f the said justices or not:—and in any information exhibited for recovery the said penalty, it shall be sufficient to allege, and upon the trial the to prove, that the defendant dealt in game without the licence required the said first-mentioned act" [*i. e.* 23 & 24 Vict. c. 90].

HIGHWAYS. 9

ial Sessions for Purposes of.] By 5 & 6 Will. 4, c. 50, s. 45, justices of the peace within their respective divisions, or any or more of them, are to hold not less than eight nor more than o special sessions in every year for executing the purposes of ct, the days of the holding thereof being appointed at a special ns held within fourteen days after 20th March in every year, o notice is necessary to be given to any justice resident within ivision of the time of the holding thereof. [Forms, Nos. 1—3, 44, 645, Oke's "*Formulist*," 6th edit.] 5 & 6 Will. 4, c. 50.

Matters may be transacted in Petty Sessions.] By 27 & 28 Vict. I, s. 46, "the justices assembled in petty sessions at their usual of meeting may exercise any jurisdiction which they are orized under the Highway Acts [5 & 6 Will. 4, c. 50; 25 & 26 c. 61; 27 & 28 Vict. c. 101], or any of them, to exercise in ial sessions." Notwithstanding this enactment, as many of the ters must necessarily be transacted at appointed times, the ion of them in this work into "Special Sessions" and "Petty ions" matters, is still retained in this edition.

ounts.] Surveyor to verify accounts [after they have been ed by him and allowed by the vestry (s. 44)], and statement of e and residence of successor (s. 10). An assistant surveyor is obliged to keep accounts (*Adams* v. *Lakeman*, 27 L. J. (N. S.) C. 307; 31 Law T. 199). [Forms of Precepts to Surveyors, owance of Accounts, &c., &c., Nos. 4, 5, p. 646, Oke's "*Formu-*" 6th edit.] In highway districts, formed under 25 & 26 Vict. 61, the above provisions will not apply (see s. 42, sub-s. 8, and 43), because the highway board will be there deemed the sur-yor (s. 11); but the appeal is allowed to the quarter sessions by & 28 Vict. c. 101, s. 38.

Appointment of Surveyor—Dismissal.] By vestry. If vestry have ed or neglected to nominate, to be done by justices at a special ns, and surveyor refusing to act, &c. may be dismissed (5 & 6 Will. 4. c. 50, s. 11), [and in highway districts formed under 25 & Vict. c. 61, a waywarden may be elected in like manner, s. 10, ead of a surveyor, ss. 11, 43]. The appointments must be made

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9 *Who are Surveyors—Justices disqualified.*] The highways in the six nties in South Wales of Glamorgan, Brecknock, Radnor, Carmarthen, mbroke, and Cardigan, are regulated by the 23 & 24 Vict. c. 68, where the matters under the Highway Act may be transacted in petty sessions ct. 42), and now also in other parts of England. By the Public Health ct, 1848 (11 & 12 Vict. c. 63, s. 117), the local board of health within limits of their district are to execute the office of and be surveyor of ways. In highway districts formed under 25 & 26 Vict. c. 61, the way board constituted under it will be the surveyor (see sects. 11, 43). As to justices disqualified, see 25 & 26 Vict. c. 61, s. 38, and 27 & 28 Vict. c. 101, s. 46, *ante*, p. 32.

5 & 6 Will. 4, c. 50.

at the special sessions subsequent to that at which the refusa neglect of the parish to elect is proved to the justices, the sect being merely directory in this respect (*Reg.* v. *Best*, 16 L. J. (N. M. C. 102). The office continues for a year. See sect. 12, wher parish is in more than one county [or sessional division, 22 & Vict. c. 65, s. 2]. As to appointment of district surveyor, see ss. 14, 15. [Form of Appointment, No. 8, p. 647, Oke's "*Formuli* 6th edit.]

Determination as to Utility of Highway.] By 5 & 6 Will. 4, c. s. 23, any one justice, on application of surveyor, is to summo party, proposing to make a new highway and dedicate it to public, to appear at the next special sessions, and the just thereat are to determine the question as to the utility of such hi way, &c. An appeal lies against this determination under sect. 1 *Note* **211**, Vol. I. p. 483, as an order, &c., for which no partic method of relief hath been already provided (*Reg.* v. *Justices of I byshire*, 27 L. J. (N. S.) M. C. 189). As to the appeal, see furt 12 & 13 Vict. c. 45, s. 1, *Note* **5**, *ante*, p. 252. As to the repair such streets within the districts of local boards of health, see 11 & Vict. c. 63, ss. 70, 73; 21 & 22 Vict. c. 98, ss. 36, 37.

Adoption of Private Road as Highway.] 5 & 6 Will. 4, c. 50, s. provides a remedy for making a highway liable to be repaire any party *ratione tenuræ*, &c. a parish highway, after consen vestry and summoning the surveyor and party,—the justices ing the annual proportion of expenses of repairs, or the sum be paid in discharge of repairs. [Forms, pp. 659, 660, O "*Formulist*," 6th edit.]

Roads out of Repair. **10**] No action is maintainable against surveyor for non-repair of a road (*Young* v. *Davis*, 6 Law T., N 363), but an information should be preferred against him be justices, and a summons issued to him to show cause, to be h at a special sessions. Justices to appoint person to view and re thereon, or justices themselves to view and convict surveyo

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10 Where the road is a turnpike road, the correct line of procedu pointed out, and the necessary forms given in Oke's "Law of Turn Roads," 2nd ed. pp. 209—216; and the Author's view of the course ranted by the decisions has been since confirmed by *Reg.* v. *Trafford*, & B. 967; and see *In re Gordon Surveyors*, 25 L. J. (N. S.) M. C In *Reg.* v. *Arnould*, 27 L. J. (N. S.) M. C. 92, it was held, that if obligation to repair is denied by the surveyor, the special sessions ca inquire whether the highway is one which the parish is liable to rep but are bound, under 5 & 6 Will. 4, c. 50, s. 95, to direct an indictme be preferred against the inhabitants of the parish. They have a discre only to inquire as to whether the parish or some other parties are the ties to be proceeded against by indictment (*Reg.* v. *Justices of Berk* Law T. 149). But the road must be a highway (*Reg.* v. *Cleckheaton* Law. T., N. S. 305; *Reg.* v. *Askerton*, 11 Law. T., N. S. 706; *Reg.* v. J son, 34 L. J. (N. S.) M. C. 85; *Reg.* v. *Farrer and others* (*Justic Dorset*), 25 L. J. (N. S.) Q. B. 230).

party liable to repair, and make an order to repair within a 5 & 6 Will. 4, c. 50.
l time; and in default to pay a sum of money for such repairs
5 Will. 4, c. 50, s. 94; see *Reg.* v. *Hutchinson*, 24 L. J. (N. S.)
. 25; *Bruton Turnpike Trustees* v. *Wincanton Highway Board*,
. J. (N. S.) M. C. 155; 22 Law T., N. S. 605). If there be an
ted highway, and the obligation to repair is in question, the
es may at their discretion direct a bill of indictment to be
red, and the costs of the prosecution are to be directed by the
to be paid out of the highway rates (s. 95).11 The court
order costs to be paid by the defendants where the defence is
lous or vexatious (s. 98, which is not applicable when they
l guilty, *Reg.* v. *Denton*, 34 L. J. (N. S.) M. C. 13; 11 Law T.,
. 371). [Forms, Nos. 9—21, pp. 647—651, Oke's "*Formulist*,"
edit.] [In South Wales, see 23 & 24 Vict. c. 68, ss. 36, 37, 40.]
highway districts, see 25 & 26 Vict. c. 61, ss. 18, 19, *post*,
p. II.]

Carriage of Materials.] Justices at first special sessions after 25th March in every year to fix rate of payment for conveyance of
e, &c. by ratepayers for repair of highways. [Forms, Nos. 21,
p. 652, Oke's "*Formulist*," 6th edit.] [Complaint by sur-
yor against manner of performing such carrying, &c. to be heard
a special sessions (5 & 6 Will. 4, c. 50, s. 35). [This provision
s not apply to parishes in highway districts formed under 25 &
Vict. c. 61, s. 42.]

Licence for sharing in Contracts, &c.] Surveyor may share in
ntract, or let to hire a team, or dispose of timber, stone, &c. to
used or employed in making or repairing highway, if two jus-
es in special sessions grant a licence in writing for that purpose
& 6 Will. 4, c. 50, s. 46, and see now 27 & 28 Vict. c. 101, s. 20,
d Offence 6, Vol. I. p. 482). [Form, No. 25, p. 653, Oke's
Formulist," 6th edit.]

Consent to Sale of Land.] By 5 & 6 Will. 4, c. 50, s. 48, after
riting that, under acts for the inclosing of waste lands, parcels
f land have been and may be expressly allotted to parishes or to
he surveyor of the highways for the purpose of obtaining mate-
ials for the repair of the highways in such parish, and the mate-
ials in such parcels of land have been and may be exhausted,
nacts, "that in such cases it shall and may be lawful for the
urveyor of such parish for the time being, by and with the consent

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11 The cases decided under 5 & 6 Will. 4, c. 50, s. 95, are—*Reg.* v. *Justices of Somersetshire*, 3 Law T., N. S. 316; *S. C. Ex parte Bartlett*, 30 L. J. (N. S.) M. C. 65; *Reg.* v. *Haslemere*, 32 L. J. (N. S.) M. C. 30; 7 Law T., N. S. 382; that the costs may be ordered when the defendants plead guilty, *Reg.* v. *Heytesbury*, 8 Law T., N. S. 315; but not when the jury are discharged. See also *Reg.* v. *Ipstones*, 37 L. J. (N. S.) M. C. 37; 17 Law T., N. S. 497.

5 & 6 Will. 4, c. 50.

of the vestry, and he is hereby authorized and required, with t consent in writing of the justices of the peace at a special sessio for the highways, to sell and convey to some person whose lan adjoin thereto, or, if he refuse to purchase, to any other perso the said parcels of land from which the said materials have be exhausted as aforesaid, at and for such price as the said justi may deem fair and reasonable: and with the money arising the from, and with such consent as aforesaid, to purchase other lan in lieu thereof." [Forms, Nos. 26, 27, Oke's "*Formulist*," 6 edit. pp. 654, 655.]

Letting Lands.] Persons enfeoffed with lands for maintenan of highways, &c., may let them to farm, the justices at a spec sessions first giving their consent in writing thereto (5 & 6 Will. c. 50, s. 50).

Taking Lands and Compensation for Damage, &c.] One calend month's notice in writing to be given by the surveyor to owner his agent, and to occupier, before materials taken from priv lands [or open field lands, 4 & 5 Vict. c. 51], to appear before ju tices at a special sessions to show cause. Order may be made consent to enter not given (5 & 6 Will. 4, c. 50, s. 53). [Form Nos. 23, 24—28, pp. 653, 654, Oke's "*Formulist*," 6th edit.] Ju tices are to settle and ascertain, by an order made at a spec sessions, the amount of satisfaction for materials got or taken aw from inclosed lands or grounds either within or without the pari [or private lands], and also for the damage done to the lands the getting and carrying away the same (s. 54). [Forms of Orde 31—34, pp. 656, 657, Oke's "*Formulist*," 6th edit.] As to raisi stone, &c., within highway districts, for the repair of a road fo merly a turnpike road, see 33 & 34 Vict. c. 73, ss. 10, 11.

Damaging Lands by making Ditches, &c.] By 5 & 6 Will. c. 50, s. 67, the surveyor may make and keep open ditches, and l trunks through lands adjoining highways, paying for damages, any, incurred, to be settled as damages for getting materials inclosed lands, *supra*. If the owner, occupier, or other pers alter or interfere with such ditches, &c. without surveyor's conse the owner, &c. is to reimburse the expenses of reinstating t work, and is also to forfeit not exceeding three times the amou of such expenses (s. 68). See Offence 69, Vol. I. p. 494.

Repair where Highway in two Parishes.] Where highway situa in two parishes, justices at a special sessions to determine wh part shall be repaired by each (5 & 6 Will. 4, c. 50, s. 58; and s *R.* v. *Perkins*, 19 L. J. (N. S.) M. C. 105). Costs of proceedin levied by distress (s. 60). [Forms, Nos. 33—35, pp. 658, 659, Oke "*Formulist*," 6th edit.]

Hedges.] Justices in special sessions may order hedges prej dicial to highway to be cut, pruned, &c. Expenses of so doi

be levied (5 & 6 Will. 4, c. 50, s. 65). [Forms, Nos. 38—40, Oke's "*Formulist*," 6th edit.] 5 & 6 Will. 4, c. 50.

uing Rates.] Any person may be excused payment of rate tices at special sessions, on proof of inability through poverty , the surveyor having been first summoned to appear (5 & 6 4, c. 50, s. 32). [Forms, Nos. 41, 42, pp. 661, 662, Oke's *ulist*," 6th edit.]

ending Rate.] Omissions or errors in rates, or in the names sons or properties, may be added or corrected with consent of s at a special sessions (5 & 6 Will. 4, c. 50, s. 31).

thering Stones.] Two justices, at a special sessions for the ays, after having summoned the owner, and heard his reason fusing his consent to the gathering of stones on lands or d within the parish, may grant their licence for that purpose 6 Will. 4, c. 50, s. 51; see ss. 52, 53, and *Pitts* v. *Kingsbridge ay Board*, 25 Law T., N. S. 195). [Forms, Nos. 43—45, 63, 664, Oke's "*Formulist*," 6th edit.]

ection Posts.] The justices at a special sessions may make s for putting up direction posts and flood posts (5 & 6 Will. 4, , s. 24). [Form, No. 46, p. 664, Oke's "*Formulist*," 6th edit.]

nty Bridges formerly Turnpike Roads.] See 33 & 34 Vict. , s. 12.

ighways formerly Turnpike Roads extending into two Counties.] 33 & 34 Vict. c. 73, s. 13, and 31 & 32 Vict. c. 99, s. 7.

ppeal against Justices' Determination in any case.] 5 & 6 Will. 4, , s. 105, in *Note* 204, Vol. I. p. 483, has the words "any . . . matter, &c. . . . *for which no particular method ief hath been already appointed.*" See *Reg.* v. *Justices of Derby-*, 27 L. J. (N. S.) M. C. 189; and 12 & 13 Vict. c. 45, s. 1, Vol. I. 32, *Note* 5, as to notice before the quarter sessions. As to , see *Read* v. *Freeman*, 30 L. J. (N. S.) M. C. 123; 3 Law T., 369.

pplication of Rates to Repair of Turnpike Roads.] By 4 & 5 c. 59, s. 1 (which is continued by 34 & 35 Vict. c. 95, to the October, 1872, and end of then next session), justices at any al sessions for the highways, upon information exhibited before n by the clerk or treasurer of any turnpike trust [within six ndar months after the matter of complaint rose, 11 & 12 Vict. 3, s. 11, *ante*, p. 135], that the funds of the said trust are insuffi- t for the repairs of the turnpike roads within any parish,— ice in writing of such intended information having been previ- ly given on the part of such clerk or treasurer to the parish rveyor 12 twenty-one days at least before such special sessions, 4 & 5 Vict. c. 59.

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[12] See *Note* 32, *ante*, who are the surveyors in certain districts. The al Government Act, 21 & 22 Vict. c. 98, s. 37, contains additional

4 & 5 Vict. c. 59.

—may examine the state of the revenues and debts of suc trusts, and inquire into the state and condition of the rep roads within the same, and also ascertain the length of including the turnpike roads, within such parish, and l of such road is turnpike road;—and if after such exan shall appear to the said justices necessary or expedien purposes of any turnpike road, so to do, then to adjudge what portion, if any, of the rate or assessment levied or t by virtue of the said recited act, shall be paid by the p veyor, and at what time or times, to the said commis trustees, or to their treasurer or other officers appointed b that behalf,—such money to be wholly laid out in the actu of such part of such turnpike road as lies within the pa which it was received. [Forms of Notice, Order, &c., No pp. 665, 666, Oke's "*Formulist*," 6th edit.] 13 A minu order should be served (11 & 12 Vict. c. 43, s. 17, Vol. I If parish surveyor neglects to pay such portion of rate, levied by distress in the same way as penalties under t Will. 4, c. 50, s. 2, with costs [11 & 12 Vict. c. 43, s. 18, *Id* 196]—*i. e.* after complaint, summons and inquiry. [Fo 50—52, pp. 667, 668, Oke's "*Formulist*," 6th edit.] I appeal to quarter sessions, giving notice within six days order, &c. (s. 3), which runs for the making of the order service (*Reg.* v. *Justices of Derbyshire*, 14 L. J. (N. S.) M and see 12 & 13 Vict. c. 45, s. 1, *Note* 5, Vol. I. p. 252, as of notice before the quarter sessions. By 34 & 35 Vict. c. 1 the contribution of a highway board to the repair of a road is to be charged to the district fund; and by sect. 16 paid from a turnpike trust on its expiration to the treas highway board is to go to the same fund.

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provisions, and as to the making of highway rates by local boa regards this, 26 & 27 Vict. c. 94, s. 1, provides that where any road is situate in a parish included in a highway district, an orde made on the highway board of the district to contribute to the the road under the same circumstances under which an order for purpose may be made on the parish surveyor in pursuance of this for the purposes of this act the highway board is to be deem substituted for the parish surveyor, &c.

13 Cases on 4 & 5 Vict. c. 59, s. 1;—*Trustees of Sunk Island Road* v. *Surveyors of Patrington*, 31 L. J. (N. S.) M. C. 18; *Reg.* v. 14 L. J. (N. S.) M. C. 75; *Reg.* v. *White*, 12 L. J. (N. S.) M. *Reg.* v. *Longbottom*, 18 L. J. (N. S.) M. C. 75; *Reg.* v. *Preston and* Id. 4; *Roberts* v. *Roberts*, 7 Law T., N. S. 320; *Mawby* v. *Hopki* Law. T., N. S. 27; *Reg.* v. *Trustees of South Shields Turnpike R* L. J. (N. S.) M. C. 134; *Brown* v. *Evans*, 34 L. J. (N. S.) M. C *Local Board of Health of Chatham Extra* v. *Rochester Pavement* Commissioners, 35 L. J. (N. S.) M. C. 81; *Weardale District* Board v. *Trustees of Alston Turnpike Trust*, 35 L. J. (N. S.) M. *Trustees of Brighton Roads* v. *Surveyors of Preston*, 39 L. J. (N. S. 33; 22 Law T., N. S. 92.

peals against Highway Rates.] See 27 & 28 Vict. c. 101, s. 37, tit. "*Poor,*" *post.* 4 & 5 Vict. c. 59.

overy of Rates.] See tit. "*Rates,*" *post,* Chap. II.

y the Highways and Locomotives (Amendment) Act, 1878 (41 & 42 Vict. c. 77), "An Act to amend the Law relating to hways in England, and the Acts relating to Locomotives hoads, and for other purposes," it is enacted as follows:— 41 & 42 Vict. c. 77.

1. *Short Title.*] This act may be cited as the Highways and motives (Amendment) Act, 1878.

2. *Application of Act.*] This act shall not apply to Scotland or nd; and, save as is by this act expressly provided, Part I. of act shall not apply to the Isle of Wight, nor to any part of the opolis, nor to any part of a county to which the act passed in ession of the twenty-third and twenty-fourth years of the n of her present majesty, chapter sixty-eight, intituled 'An for the better Management and Control of the Highways in h Wales,' extends.

3. *Highway Districts to be made, so far as possible, coincident tural Sanitary Districts.*] In forming any highway districts, altering the boundaries of any highway districts, the county hority shall have regard to the boundaries of the rural sanitary ricts in their county, and shall, so far as may be found practible, form highway districts so as to be coincident in area with l sanitary districts, or wholly contained within rural sanitary ricts.

4. *Power for Rural Sanitary Authority of District coincident with hway District to become Highway Board.*] Where a highway rict, whether formed before or after the passing of this act, is becomes coincident in area with a rural sanitary district, the l sanitary authority of such district may apply to the county hority, stating that they are desirous to exercise the powers of hway board under the Highway Acts within their district.

'On such application the county authority may, if they see fit, order declare that from and after a day to be named in the er (in this act called the commencement of the order) such rural itary authority shall exercise all the powers of a highway board der the Highway Acts; and as from the commencement of the der the existing highway board (if any) for the district shall be olved, and waywardens or surveyors shall not hold office or be ted for any parish in the district.

"An order made under this section may be amended, altered, or nded by a subsequent order of the county authority.

"Where a highway district, being coincident in area with a rural itary district, is situate in more than one county, an order under

41 & 42 Vict. c. 77.

this section may be made by the county authority of a
in which any part of such district is situate, but such
any order amending, altering, or rescinding the same sh
of any force or effect until it has been approved by th
authority or authorities of the other county or counties
any part of such district is situate.

"5. (1.) *Consequences of Rural Sanitary Authority becom way Board.*] From and after the commencement of
declaring a rural sanitary authority entitled to exercise th
of a highway board within their district, the following cons
shall ensue:

"All such property, real or personal, including all intere
ments and rights in to and out of property real and
and including things in action, as belongs to or is ves
would but for such order have belonged to or been
the highway board, or any surveyor or surveyors of a
forming part of the district, shall pass to and vest in t
sanitary authority for all the estate and interest of the
board, or of such surveyor or surveyors, but subjec
debts and liabilities affecting the same:

"All debts and liabilities incurred in respect of any
transferred to the rural sanitary authority may be
against that authority to the extent of the property tran

"All such powers, rights, duties, liabilities, capacities,
capacities (except the power of obtaining payment
expenses by the issue of precepts in manner provided
Highway Acts, or the power of making, assessing, and
highway rates) as are vested in or attached to or would
such order have become vested in or attached to the hi
board, or any surveyor or surveyors of any parish formi
of the district, shall vest in and attach to the rural s
authority:

"All property by this act transferred to the rural sanitary
rity shall be held by them on trust for the several parish
the benefit of which it was held previously to such trans

"(2.) If at any time after a rural sanitary authority has b
invested with the powers of a highway board in pursuance o
act, the boundaries of the district of such authority are altere
powers and jurisdiction of such authority in their capacity of
way board shall be exercised within such altered district; a
the application of any authority or person interested the
government board may by order provide for the adjustment o
accounts, or the settlement of any doubt or difference so t
relates to highways consequent on the alteration of the bound
of such rural sanitary district.

"(3.) All expenses incurred by a rural sanitary authority in

rmance of their duties as a highway board shall be deemed to 41 & 42 Vict.
neral expenses of such authority within the meaning of the c. 77.
e Health Act, 1875.

. *Highway Boards may combine to appoint a District Surveyor.*]
two or more highway boards may unite in appointing and
g the salary of a district surveyor, who shall in relation to
istrict of each of the boards by whom he is appointed have all
owers and duties of a district surveyor under the Highway

. *Expenses of Highway Boards to be paid out of District Fund.*]
xpenses incurred by any highway board in maintaining and
ing in repair the highways of each parish within their district,
all other expenses legally incurred by such board, shall, not-
standing anything contained in the Highway Acts, on and
the twenty-fifth day of March, one thousand eight hundred
seventy-nine be deemed to have been incurred for the common
r benefit of the several parishes within their district, and shall
harged on the district fund: Provided, that if a highway board
k it just, by reason of natural differences of soil or locality, or
r exceptional circumstances, that any parish or parishes within
r district should bear the expenses of maintaining its or their
highways, they may (with the approval of the county autho-
or authorities of the county or counties within which their
rict, or any part thereof, is situate) divide their district into
or more parts, and charge exclusively on each of such parts
expenses payable by such highway board in respect of main-
ing and keeping in repair the highways situate in each such
; so, nevertheless, that each such part shall consist of one or
highway parish or highway parishes.

. *Charge of Moneys to be hereafter borrowed.*] All moneys
rowed by a highway board after the twenty-fifth day of March,
thousand eight hundred and seventy-nine, under the Highway
, shall be charged on the district fund, but nothing in this act
ll affect the security, chargeability, or repayment of any
neys borrowed before the twenty-fifth day of March, one thou-
d eight hundred and seventy-nine.

9. *Audit of Accounts of Highway Districts and Parishes.*] The
ounts of the highway authority of every highway district and
hway parish shall be made up in such form as the local govern-
nt board shall from time to time prescribe, and shall be
anced to the twenty-fifth day of March in each year, and as
n as conveniently may be after such day the said accounts shall
audited and examined by the auditor of accounts relating to the
lief of the poor for the audit district in which the highway
strict or highway parish, or the greater part thereof in rateable
lue, is situate.

41 & 42 Vict. c. 77.

"Every such auditor shall (as nearly as may be) have, in relat to the accounts of the highway authority of a highway district highway parish, and of their officers, the same powers and du as he has in the case of accounts relating to the relief of the po and any person aggrieved by the decision of the auditor shall h the same rights and remedies as in the case of such last-mentio audit.

"The auditor shall receive such remuneration as the local gove ment board direct; and such remuneration, together with expenses incident to the audit, shall be paid by the highway aut rity of the highway district or highway parish out of the fund rate applicable to the repair of highways within such distric parish; and such remuneration and expenses may, in defaul payment, be recovered in a summary manner.

"Section forty-four of the Highway Act, 1835, is hereby repea and section thirty-six of the Highway Act, 1864, is hereby repe down to the words 'to be paid out of the district fund,' and statement of receipt and expenditure by the said section direc to be furnished by every highway board within thirty days a the signature of the accounts by the chairman shall be furnis within thirty days after the completion of the audit under section.

"Nothing in this section shall affect any proceeding commen before the passing of this act.

"10. *Power of County Authority to enforce performance of dut defaulting Highway Authority.*] Where complaint is made to county authority that the highway authority of any highway within their jurisdiction has made default in maintaining or pairing all or any of the highways within their jurisdiction, county authority, if satisfied after due inquiry and report by t surveyor that the authority has been guilty of the alleged defa shall make an order limiting a time for the performance of duty of the highway authority in the matter of such complaint.

"If such duty is not performed by the time limited in the or and the highway authority fail to show to the county autho sufficient cause why the order has not been complied with, county authority may appoint some person to perform such d and shall by order direct that the expenses of performing the s together with the reasonable remuneration of the person appoi for superintending such performance, shall be paid by the autho in default, and any order made for payment of such expenses costs may be removed into the High Court of Justice, and be forced in the same manner as if the same were an order of court.

"Any person appointed under this section to perform the du a defaulting highway authority shall, in the performance and

urpose of such duty, be invested with all the powers of such 41 & 42 Vict.
rity other than the powers of making rates or levying contri- c. 77.
ns by precept, and the county authority may from time to
by order, change any person so appointed.

Where an order has been made by a county authority for the
r of a highway on a highway authority alleged to be in default,
h authority, within ten days after service on them of the
of the county authority, give notice to the clerk of the peace
they decline to comply with the requisitions of such order until
liability to repair the highway in respect to which they are
d to have made default has been determined by a jury, it
be the duty of the county authority either to satisfy the
ting authority by cancelling or modifying in such manner as
thority may desire the order of the county authority, or else
mit to a jury the question of the liability of the defaulting
rity to repair the highway.

If the county authority decide to submit the question to a jury
shall direct a bill of indictment to be preferred to the next
icable assizes to be holden in and for their county, with a view
y the liability of the defaulting authority to repair the high-
. Until the trial of the indictment is concluded the order of
county authority shall be suspended. On the conclusion of the
, if the jury find the defendants guilty, the order of the county
rity shall forthwith be deemed to come into force; but if the
acquit the defendants the order of the county authority shall
with become void.

The costs of the indictment, and of the proceedings consequent
on, shall be paid by such parties to the proceedings as the
t before whom the case is tried may direct. Any costs directed
paid by the county authority shall be deemed to be expenses
erly incurred by such authority, and shall be paid accordingly
of the county rate; and any costs directed to be paid by the
way authority shall be deemed to be expenses properly incurred
uch authority in maintenance of the roads within their juris-
ion, and shall be paid out of the funds applicable to the main-
nce of such roads.

11. *Duration of Office of Waywarden.* Notwithstanding any-
g in the Highway Acts, waywardens shall continue in office till
thirtieth day of April in the year following the year in which
y were elected, and on that day their successors shall come into
e.

12. *Repeal of part of Sect. 7 of 25 & 26 Vict. c. 61.*] So much
section seven of the Highway Act, 1862, as prohibits the inclu-
in a highway district of any parish or place the highways of
ch were, at the time of the passing of that act, or within six
nths afterwards, under the superintendence of a board esta-

41 & 42 Vict. c. 77.

blished in pursuance of section eighteen of the principal act, ur with the consent of such board, is hereby repealed.

"13. *Disturnpiked Roads to become Main Roads, and half the Exp or Maintenance to be contributed out of County Rate.*] For the p poses of this act, and subject to its provisions, any road which within the period between the thirty-first day of December, thousand eight hundred and seventy, and the date of the passin this act, ceased to be a turnpike road, and any road which, b at the time of the passing of this act a turnpike road, may af wards cease to be such, shall be deemed to be a main road; and half of the expenses incurred from and after the twenty-ninth of September, one thousand eight hundred and seventy-eight the highway authority in the maintenance of such road shall, a every part thereof which is within the limits of any highway a be paid to the highway authority of such area by the cou authority of the county in which such road is situate out of county rate, on the certificate of the surveyor of the county au rity, or of such other person or persons as the county authority appoint, to the effect that such main road has been maintaine his or their satisfaction.

"Provided that no part of such expenses shall be included in

"(1.) Any precept or warrant for the levying or collectio county rate within the metropolis, subject and wit prejudice to any provision to be hereafter made; or

"(2.) Any order made on the council of any borough havi separate court of quarter sessions under section one h dred and seventeen of the Municipal Corporation Act, 1

"The term 'expenses' in this section shall mean the cos repairs defrayed out of current rates, and shall not include repayment of principal moneys borrowed, or of interest pay thereon.

"14. *Description of Highway Areas.*] The following areas sha deemed to be highway areas for the purposes of this act; (th to say,)

"(1.) Urban sanitary districts:

"(2.) Highway districts:

"(3.) Highway parishes not included within any highway di or any urban sanitary district.

"15. *Power to declare ordinary Highway to be a Main R* Where it appears to any highway authority that any high within their district ought to become a main road by reason o being a medium of communication between great towns, thoroughfare to a railway station, or otherwise, such high authority may apply to the county authority for an order decla such road, as to such parts as aforesaid, to be a main road; an county authority, if of opinion that there is probable cause fo

on, shall cause the road to be inspected, and, if satisfied ght to be a main road, shall make an order accordingly. 41 & 42 Vict. c. 77.

py of the order so made shall be forthwith deposited at the the clerk of the peace of the county, and shall be open to ction of persons interested at all reasonable hours; and so made shall not be of any validity unless and until it is l by a further order of the county authority made within of not more than six months after the making of the first-d order.

Power to reduce Main Road to status of ordinary Highway.] ears to a county authority that any road within their which, within the period between the thirty-first day of r, one thousand eight hundred and seventy, and the date of ng of this act, ceased to be a turnpike road ought not to main road in pursuance of this act, such authority shall, e 1st day of February, one thousand eight hundred and nine, make an application to the local government board visional order declaring that such road ought not to become oad.

ect as aforesaid, where it appears to a county authority that within their county which has become a main road in e of this act ought to cease to be a main road and become ary highway, such authority may apply to the local ent board for a provisional order declaring that such road d to be a main road and become an ordinary highway.

local government board, if of opinion that there is probable an application under this section, shall cause the road to ted, and if satisfied that it ought not to become or ought o be a main road and become an ordinary highway shall rovisional order accordingly, to be confirmed as herein-tioned.

xpenses incurred in or incidental to the making or con- of any order under this section shall be defrayed by the uthority applying for such order.

Turnpike Road in several Counties.] Where a turnpike road one trust extends into divers counties, such road, for the of this act, shall be treated as a separate turnpike road in nty through which it passes.

Accounts of Expenses of maintenance of Main Roads.] Every authority shall keep, in such form as may be directed by ty authority, a separate account of the expenses of the nce of the main roads within their jurisdiction, and shall copies thereof to the county authority at such time or every year as may be required by the county authority, accounts so kept shall, where the accounts of the highway are audited under this act or under section two hundred

41 & 42 Vict. c. 77.

and forty-seven of the Public Health Act, 1875, be audited in same manner as the other accounts of such authority, and w the accounts of the highway authority are not so audited sha subject to such audit as the county authority may direct.

"If any highway authority makes default in complying wit provisions of this section, or with any directions given in pu ance thereof by the county authority, the county authority withhold all or any part of the contribution payable by them u this act towards the expenses of the maintenance of main roa such highway authority for the year in which such default occ

"19. *Highway District situate in more than one County.*] W a highway district is situate in more than one county, the provi of this act, with respect to the expenses of the maintenance of roads, shall apply as if the portion of such district situate in county were a separate highway district in that county.

"20. *Repair of Main Roads in certain Cases.*] Notwithstan the provisions of this act, in the case of any county in which ce of the bridges within the county are repairable by the coun large, and others are repairable by the several hundreds withi county in which they are situate, it shall be lawful for the co authority from time to time, by order, to declare any main ro part of a main road within their county to be repairable t extent only and in manner provided by section thirteen of thi either by the county or by the hundred in which such main ro part is situate, as they think fit; and where a main road or thereof is declared to be repairable by a hundred, the expen repairing the same shall, to the extent to which but for this se the expense or any contribution towards the expense of repa the same would be repayable out of the county rate, be repay out of a separate rate which shall be raised and charged in the manner as the expenses of repairing the hundred bridges i same hundred would have been raised and charged.

"21. *Certain existing Bridges may be accepted by County Autho* Any bridge erected before the passing of this act in any co without such superintendence as is provided in section five o statute of the forty-third year of King George the Third, ch fifty-nine, and which is certified by the county surveyor or person appointed in that behalf by the county authority to good repair and condition, shall, if the county authority see to order, become and be deemed to be a bridge which the inh ants of the county shall be liable to maintain and repair.

"22. *Contribution out of County Rates towards erecting Bri* The county authority may make such contribution as it sees fi of the county rates towards the cost of any bridge to be here erected, after the same has been certified in accordance wit provisions of section five of the statute of the forty-third ye

George the Third, chapter fifty-nine, as a proper bridge to be 41 & 42 Vict. c. 77.
ained by the inhabitants of the county; so always that such ibution shall not exceed one half the cost of erecting such e.

3. *Power of Road Authority to recover Expenses of extraordinary &c.*] Where by a certificate of their surveyor it appears to the rity which is liable or has undertaken to repair any highway, her a main road or not, that, having regard to the average se of repairing highways in the neighbourhood, extraordinary ses have been incurred by such authority in repairing such way by reason of the damage caused by excessive weight ing along the same, or extraordinary traffic thereon, such rity may recover in a summary manner from any person by se order such weight or traffic has been conducted the amount ch expenses as may be proved to the satisfaction of the court ing cognizance of the case to have been incurred by such rity by reason of the damage arising from such weight or fic as aforesaid.

"Provided that any person against whom expenses are or may be verable under this section may enter into an agreement with h authority as is mentioned in this section for the payment to m of a composition in respect of such weight or traffic, and reupon the persons so paying the same shall not be subject to y proceedings under this section.

"24. *Unnecessary Highways may be declared not repairable at the blic Expense.*] If any authority liable to keep any highway in pair is of opinion that so much of such highway as lies within y parish situate in a petty sessional division is unnecessary for blic use, and therefore ought not to be maintained at the public pense, such authority (in this section referred to "as the applicant thority") may apply to the court of summary jurisdiction of ch petty sessional division to view by two or more justices, being mbers of the court, the highway to which such application re- tes, and on such view being had, if the court of summary juris- ction is of opinion that the application ought to be proceeded ith, it shall by notice in writing to the owners or reputed owners d occupiers of all lands abutting upon such highway, and by blic notice, appoint a time and place, not earlier than one month om the date of such notice, at which it will be prepared to hear ll persons objecting to such highway being declared unnecessary r public use, and not repairable at the expense of the public.

"On the day and at the place appointed, the court shall hear any rsons objecting to an order being made by the court that such ighway is unnecessary for public use and ought not to be repair- able at the public expense, and shall make an order either dis- missing the application or declaring such highway unnecessary for

41 & 42 Vict. c. 77.

public use, and that it ought not to be repaired at the pu expense.

"If the court make such last-mentioned order as aforesaid, expenses of repairing such highway shall cease to be defrayed of any public rate.

"Public notice of the time and place appointed for hearing a under this section shall be given by the applicant authorit follows; that is to say,

"(1.) By advertising a notice of the time and place appointe the hearing and the object of the hearing, with a des tion of the highway to which it refers in some local ne paper circulating in the district in which such highw situate, once at least in each of the four weeks prece the hearing; and

"(2.) By causing a copy of such notice to be affixed, at fourteen days before the hearing, to the principal doo every church and chapel in the parish in which highway is situate, or in some conspicuous position such highway.

"And the application shall not be entertained by the court the fact of such public notice having been given is proved t satisfaction.

"If at any time after an order has been made by a court of mary jurisdiction under this section, upon application of any pe interested in the maintenance of the highway in respect of w such order has been made, after one month's previous noti writing thereof to the applicant authority, it appears to the of quarter sessions that from any change of circumstances the time of the making of any such order as aforesaid highway has become of public use, and ought to be maintain the public expense, the court of quarter sessions may direct the liability of such highway to be maintained at the public exp shall revive from and after such day as they may name in order, and such highway shall thenceforth be maintained out o rate applicable to payment of the expenses of repairing other h ways repairable by the applicant authority; and the said cou quarter sessions may by their order direct the expenses of and dent to such application to be paid as they may see fit.

"Any order of a court of summary jurisdiction under this se shall be deemed to be an order from which an appeal lies to a of quarter sessions.

"25. *Removal of Doubt as to Appointment of Surveyors in co Parishes.*] Whereas doubts have arisen whether a surveyor of ways can be appointed, in pursuance of the Highway Act, 183 a parish which does not maintain any highway: Be it then enacted, that it shall be lawful for the inhabitants in vestry a

41 & 42 Vict. c. 77.

f any parish or place having a known legal boundary (not-
sading that the inhabitants at large are not for the time
liable to maintain any highway or to contribute to any rate
able to the maintenance of highways), or, on the neglect or
l of such inhabitants, for the justices at a special sessions for
ighways or in petty sessions assembled, at any time to exer-
l the powers of the Highway Acts with respect to the election
pointment of a surveyor of highways with or without a salary
ch parish or place; and any surveyor so elected or appointed
have all the powers and duties (including the power of
ng, assessing, and levying of highway rates) of a surveyor
r the Highway Acts.

6. *Power of County Authority to make Bye-Laws.*] A county
rity may from time to time make, with respect to all or any
roads or other highways within any highway area in their
ty, and when made alter or repeal, bye-laws for all or any of
purposes following; that is to say,

(1.) For prohibiting or regulating the use of any waggon wain cart or carriage drawn by animal power and having wheels of which the fellies or tires are not of such width in proportion to the weight carried by, or to the size of, or to the number of wheels of such waggon wain cart or carriage, as may be specified in such bye-laws; and

"(2.) For prohibiting or regulating the use of any waggon wain cart or other carriage drawn by animal power not having the nails on its wheels countersunk in such manner as may be specified in such bye-laws, or having on its wheels bars or other projections forbidden by such bye-laws; and

"(3.) For prohibiting or regulating the locking of the wheel of any waggon wain cart or carriage drawn by animal power when descending a hill, unless there is placed at the bottom of such wheel during the whole time of its being locked a skidpan slipper or shoe in such manner as to prevent the road from being destroyed or injured by the locking of such wheel; and

"(4.) For prohibiting or regulating the erection of gates across highways, and prohibiting gates opening outwards on highways; and

"(5.) For regulating the use of bicycles.

"Fines to be recovered summarily may be imposed by any such bye-laws on persons breaking any bye-law made under this section, provided that no fine exceeds for any one offence the sum of two pounds, and that the bye-laws are so framed as to allow of the recovery of any sum less than the full amount of the fine.

"27. *To whom Minerals under disturnpiked Roads to belong.*] Notwithstanding anything contained in section sixty-eight of the

41 & 42 Vict. c. 77.

Public Health Act, 1848, or in section one hundred and forty-
of the Public Health Act, 1875, all mines and minerals of
description whatsoever under any disturnpiked road or high
which has or shall become vested in an urban sanitary autho
by virtue of the said sections, or either of them, shall belong to
person who would be entitled thereto in case such road or high
had not become so vested, and the person entitled to any
mine or minerals shall have the same powers of working an
getting the same or other minerals as if the road or highway
not become vested in the urban sanitary authority, but so never
less that in such working and getting no damage shall be don
the road or highway.

"This section shall extend to the Isle of Wight and to S
Wales, as defined by the said act of the twenty-third and twe
fourth years of the reign of her present Majesty, chapter si
eight, intituled 'An Act for the better management and contr
the highways in South Wales.'

"28. *Weight of Locomotives and Construction of Wheels.*] Sec
three of the Locomotive Act, 1861, and section five of the Loco
tive Act, 1865, are hereby repealed, so far as relates to Engl
and in lieu thereof be it enacted that it shall not be lawful to
on any turnpike road or highway a locomotive constructed ot
wise than in accordance with the following provisions; (that
say,)

"(1.) A locomotive not drawing any carriage, and not excee
in weight three tons, shall have the tires of the wh
thereof not less than three inches in width, with an a
tional inch for every ton or fraction of a ton above
first three tons; and

"(2.) A locomotive drawing any waggon or carriage shall
the tires of the driving wheels thereof not less than
inches in width for every ton in weight of the locomo
unless the diameter of such wheels shall exceed five
when the width of the tires may be reduced in the
proportion as the diameter of the wheels is increased,
in such case the width of such tires shall not be less
fourteen inches; and

"(3.) A locomotive shall not exceed nine feet in width
fourteen tons in weight, except as hereinafter provi
and

"(4.) The driving wheels of a locomotive shall be cylind
and smooth-soled, or shod with diagonal cross-bars o
less than three inches in width nor more than th
quarters of an inch in thickness, extending the
breadth of the tire, and the space intervening bet
each such cross-bar shall not exceed three inches.

owner of any locomotive used contrary to the foregoing 41 & 42 Vict. c. 77.
s shall for every such offence be liable to a fine not g five pounds: Provided that the mayor, aldermen, and s in the city of London, and the Metropolitan Board of in the metropolis, exclusive of the city of London, and the of any borough which has a separate court of quarter , and the county authority of any county, may, on the tion of the owner of any locomotive exceeding nine feet in r fourteen tons in weight, authorize such locomotive to be any turnpike road or highway within the areas respectively entioned, or part of any such road or highway, under such ns (if any) as to them may appear desirable. Provided t the owner of a locomotive used contrary to the provisions ection two of this section shall not be deemed guilty of an under this section if he proves to the satisfaction of the court cognizance of the case that such locomotive was constructed the passing of this act, and that the tires of the wheels are not less than nine inches in width.

Amendment of 28 & 29 *Vict. c.* 83, *s.* 3.] The paragraph red 'secondly' of section three of the Locomotive Act, s hereby repealed, so far as relates to England, and in lieu the following paragraph is hereby substituted; namely,

'Secondly, one of such persons, while the locomotive is in 'motion, shall precede by at least twenty yards the loco- 'motive on foot, and shall in case of need assist horses, and 'carriages drawn by horses, passing the same.'

Steam Locomotives to be constructed so as to consume their .] Section eight of the Locomotive Act, 1861, is hereby led, so far as relates to England; and in lieu thereof, be it d that every locomotive used on any turnpike road or high- hall be constructed on the principle of consuming its own ; and any person using any locomotive not so constructed, or nsuming, so far as practicable, its own smoke, shall be liable fine not exceeding five pounds for every day during which locomotive is used on any such turnpike road or highway.

Power to Local Authorities to make Orders as to Hours during Locomotives may pass over Roads.] Section eight of the Loco- ve Act, 1865, is hereby repealed, so far as relates to England; in lieu thereof, be it enacted that the mayor, aldermen, and ons in the city of London, and the Metropolitan Board of s in the metropolis, exclusive of the city of London, and the cil of any borough which has a separate court of quarter ns, and the county authority of any county, may make bye- s as to the hours during which locomotives are not to pass over turnpike roads or highways situate within the areas respec- ly above mentioned, the hours being in all cases consecutive

41 & 42 Vict. c. 77.

hours and no more than eight out of the twenty-four, and regulating the use of locomotives upon any highway, or preven such use upon every bridge where such authority is satisfied such use would be attended with danger to the public; and person in charge of a locomotive acting contrary to such bye- shall be liable to a fine not exceeding five pounds.

"32. *Power of County Authority to licence Locomotives.*] A co authority may from time to time make, alter, and repeal bye- for granting annual licences to locomotives used within their cou and the fee (not exceeding ten pounds) to be paid in respect of licence; and the owner of any locomotive for which a licen required under any bye-law so made who uses or permits the to be used in contravention of any such bye-law shall be liable fine not exceeding forty shillings for every day on which the is so used.

"All fees received under this section shall be carried to applied as part of the county rate.

"This section shall not apply to any locomotive used solel agricultural purposes.

"33. *Duration of Part II. of Act.*] This part of this act remain in force so long only as the Locomotive Act, 1865, cont in force.

"34. *Confirmation of Provisional Order.*] It shall be lawfu the local government board to submit any provisional order by them under this act to parliament for confirmation, and wi such confirmation a provisional order shall not be of any valid

"35. *Confirmation of Bye-laws.*] A bye-law made under act, and any alteration made therein and any repeal of a bye- shall not be of any validity until it has been submitted to and firmed by the local government board.

"A bye-law made under this act shall not, nor shall any alter therein or addition thereto or repeal thereof, be confirmed unt expiration of one month after notice of the intention to appl confirmation of the same has been given by the authority ma the same in one or more local newspapers circulating in county or district.

"36. *Recovery of Penalties and Expenses.*] All offences, and expenses under this act, or any bye-law made in pursuan this act, may be prosecuted, enforced, and recovered before a of summary jurisdiction in manner provided by the Sum Jurisdiction Acts.

"The expression 'the Summary Jurisdiction Acts' mean act of the session of the eleventh and twelfth years of the of her present Majesty, chapter forty-three, intituled 'An A 'facilitate the performance of the duties of justices of the 'out of sessions within England and Wales with respect to

'convictions and orders,' inclusive of any acts amending the 41 & 42 Vict. c. 77.

e expression 'court of summary jurisdiction' means and es any justice or justices of the peace, metropolitan police trate, stipendiary or other magistrate, or officer, by whatever called, to whom jurisdiction is given by the Summary Juris- Acts: Provided that the court, when hearing and deter- g an information or complaint under this act, shall be con- d either of two or more justices of the peace in petty sessions, at a place appointed for holding petty session, or of some rate or officer sitting alone or with others at some court or place appointed for the administration of justice, and for the eing empowered by law to do alone any act authorized to e by more than one justice of the peace.

. *Form of Appeal to Quarter Sessions.*] If any party thinks lf aggrieved by any conviction or order made by a court of ary jurisdiction on determining any information or complaint this act, the party so aggrieved may appeal therefrom, rt to the conditions and regulations following:

(1.) The appeal shall be made to the next practicable court of quarter sessions for the county or place where the decision appealed from was given holden not less than twenty-one days after the decision of the court from which the appeal is made; and

(2.) The appellant shall, within ten days after the pronouncing by the court of the decision appealed from, give notice to the other party and to the court of summary jurisdiction of his intention to appeal and of the ground thereof; such notice of appeal shall be in writing signed by the person or persons giving the same, or by his, her, or their solicitor on his, her, or their behalf; and

(3.) The appellant shall, within three days after such notice, enter into a recognizance before a justice of the peace, with two sufficient sureties, conditioned personally to try such appeal, and to abide the judgment of the court thereon and to pay such costs as may be awarded by the court, or give such other security by deposit of money or otherwise as the justice may allow; and

(4.) Where the appellant is in custody the justice may, if he think fit, on the appellant entering into such recognizance or giving such other security as aforesaid, release him from custody:

(5.) The court of appeal may adjourn the appeal, and upon the hearing thereof they may confirm, reverse, or modify the decision of the court of summary jurisdiction, or remit the matter to the court of summary jurisdiction with the

41 & 42 Vict. c. 77.

opinion of the court of appeal thereon, or make s
order in the matter as the court thinks just, a
matter be remitted to the court of summary ju
the said last-mentioned court shall thereupon re-
decide the information or complaint in accorda
the opinion of the said court of appeal. The
appeal may also make such order as to costs to
by either party as the court thinks just.

"38. *Interpretation.*] In this act—

"'County' has the same meaning as it has in the I
Acts, 1862 and 1864, except that every liberty n
assessable to the county rate of the county or countie
which it is locally situate shall, for the purposes of
other than those relating to the formation and alter
highway districts, and the transfer of the powers of a h
board, be deemed to be a separate county:

"'County authority' means the justices of a county in
or quarter sessions assembled:

"'Borough' means any place for the time being subject
act of the session of the fifth and sixth years of the
King William the Fourth, chapter seventy-six, intitul
'Act to provide for the regulation of municipal corpo
'in England and Wales,' and the acts amending the

"'Highway district' means a district constituted in pursu
the Highway Act, 1862, and the Highway Act, 1864,
of such acts:

"'Highway board' means the highway board having juris
within a highway district:

"'Highway parish' means a parish or place included or c
of being included in a highway district in pursuance
Highway Acts, 1862 and 1864, or one of such acts:

"'Highway authority' means as respects an urban sa
district the urban sanitary authority, and as respects a
way district the highway board, and as respects a hig
parish the surveyor or surveyors or other officers perfor
similar duties:

"'Rural sanitary district' and 'rural sanitary authority'
respectively the districts and authorities declared t
rural sanitary districts and authorities by the Public H
Act, 1875:

"'Urban sanitary district' and 'urban sanitary autho
mean respectively the districts and authorities declared
urban sanitary districts and authorities by the Public He
Act, 1875, except that for the purposes of this act no boro
having a separate court of quarter sessions, and no par
any such borough, shall be deemed to be or to be includ

any such district, and where part of a parish is included in such district for the purpose only of the repairs of the highways such part shall be deemed to be included in the district for the purposes of this act: 41 & 42 Vict. c. 77.

'Metropolis' means the parishes and places mentioned in the Schedules A., B., and C,, annexed to the Metropolis Management Act, 1855, and any parish to which such act may be extended by Order in Council in manner in the said act provided; also the city of London and the liberties of the said city:

'Quarter sessions' includes general sessions:

'Petty sessional division' means any division for the holding a special sessions formed or to be formed under the provisions of the act of the ninth year of the reign of his late Majesty King George the Fourth, chapter forty-three, or any act amending the same; also any division of a county, or of a riding, division, parts, or liberty of a county, having a separate commission of the peace, in and for which petty sessions or special sessions are usually held, whether in one or more place or places, in accordance with any custom, or otherwise than under the said last-mentioned act; but does not include any city, borough, town corporate, or district constituted a petty sessional division by the act of the session of the twelfth and thirteenth years of the reign of her present Majesty, chapter eighteen, intituled 'An Act for the holding of petty sessions of the peace in boroughs, and for providing places for the holding of such petty sessions in counties and boroughs:'

"'Locomotive' means a locomotive propelled by steam or by other than animal power:

"'Person' includes a body of persons corporate or unincorporate."

HUNDRED.

Action against the Hundred for Damage done by Rioters in certain cases.] By the 7 & 8 Geo. 4, c. 31, "An Act for consolidating and amending the Laws in England relative to Remedies against the Hundred," it is enacted by sect. 2,—"That if any church or chapel, or any chapel for the religious worship of persons dissenting from the united church of England and Ireland, duly registered or recorded,—or any house, stable, coach-house, outhouse, warehouse, office, shop, mill, malthouse, hop oast, barn, or granary,—or any building or erection used in carrying on any trade or manufacture, or branch thereof,—or any machinery, whether fixed or moveable, prepared for or employed in any manufacture, or in any branch thereof [or any threshing machine, whether fixed or moveable, or any part thereof, 2 & 3 Will. 4, c. 72, s. 1],—or any steam engine or 7 & 8 Geo. 4, c. 31.

7 & 8 Geo. 4, c. 31.

other engine for sinking, draining, or working any mir staith, building or erection used in conducting the busine mine, or any bridge, waggon-way, or truck for conveying from any mine, shall be *feloniously* demolished, pulled destroyed, wholly or in part, by any persons *riotously a tuously* assembled together,14—in every such case the inha the hundred, wapentake, ward, or other district in the na hundred [see sects. 7, 12, 14, 15 and 32 & 33 Vict. c. 47, 16, p. 1245], by whatever name it shall be denominated, any of the said offences shall be committed, shall be liable full compensation to the person or persons damnified by the not only for the damage so done to any of the subjects here enumerated, but also for any damage which may at the sa be done by any such offenders to any fixture, furniture. whatever, in any such church, chapel, house, or othe buildings or erections aforesaid."

The following sections refer to both actions and summ ceedings for damage: sect. 3 to both, and sects. 4, 6 a actions only, which, since the 32 & 33 Vict. c. 47, abolish office of high constable, are by sect. 5 to be brought aga chief constable:—

Examination before Justice as to Offence—Limitation of Sect. 3 enacts, "That no action or summary proceeding, as after mentioned [in sect. 8, *post*, p. 1244], shall be maintai virtue of this act, for the damage caused by any of the said o unless the person or persons damnified, or such of them a have knowledge of the circumstances of the offence, or the or servants who had the care of the property damaged, shall seven days after the commission of the offence go befor justice of the peace residing near and having jurisdiction o place where the offence shall have been committed, and sha upon oath before such justice the names of the offenders if k and shall submit to the examination of such justice touchi circumstances of the offence, and become bound by recogn before him to prosecute the offenders when apprehended:- vided also, that no person shall be enabled to bring any such a unless he shall commence the same within three calendar m after the commission of the offence." (Forms of Examinatio Recognizance, Oke's "*Formulist*," 6th ed. p. 668.]

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14 The injury must have been done by persons "*riotously and t tuously* assembled" together in such a manner as to constitute a ri which, see tit. "*Riots*," *ante*, p. 1166, *Note* 115); and the demolishin of the building, &c. must have been done *feloniously* within the p law, as contained in 24 & 25 Vict. c. 97, s. 11 (see Offence 476, *a* 1166, tit. "*Riots*)", to bring a case within this act of 7 & 8 Geo. 31. See *Reid* v. *Clark*, 7 T. R. 496; *R.* v. *Thomas*, 4 C. & P. 237.

cess against Hundred to be served on Chief Constable, &c.] Sect. 7 & 8 Geo. 4, c. 31.
acts, "That no process for appearance in any action to be ght by virtue of this act against any hundred or other like ict shall be served on any inhabitant thereof, except on the f constable, see 32 & 33 Vict. c. 47, s. 5, *Note* 15), or some of the [chief] constables (if there be more than one), who shall im seven days after such service give notice thereof to two ices of the peace of the county, riding, or division in which hundred or district shall be situate, residing in or acting for hundred or district;—and such [chief] constable is hereby em- ered to cause to be entered an appearance in the said action, also to defend the same on behalf of the inhabitants of the dred or district, as he shall be advised;—or, instead of defend- the same, it shall be lawful for him, with the consent and robation of such justices, to suffer judgment to go by default; nd the person upon whom, as high constable, the process in the ion shall be served, shall, notwithstanding the expiration of his ce, continue to act for all the purposes of this act until the mination of all proceedings in and consequent upon such action; if such person shall die before such termination, the succeed- [chief] constable shall act in his stead."

If Plaintiff recovers, Sheriff on Writ of Execution to make out warrant directing Treasurer to pay.] Sect. 6 enacts, "That where- r the plaintiff in any such action shall recover judgment, ether after verdict or by default or otherwise, no writ of ecution shall be executed on any inhabitant of the hundred or her like district, nor on such high constable; but the sheriff, on the receipt of the writ of execution, shall (on payment of the of five shillings and no more) make his warrant to the treasurer nd see sect. 13 as to execution of warrants in the Cinque Ports d other places] of the county, riding, or division, in which such ndred or other like district shall be situate, commanding him to y to the plaintiff the sum by the said writ directed to be levied, nd such treasurer is hereby required to pay the same, as also any her sum ordered to be paid by him by virtue of this act, out of y public money which shall then be in his hands, or shall come to his hands before the next general or quarter sessions of the ace for the said county, riding, or division;—and if there be not ficient money for that purpose before such sessions, he shall give tice thereof to the justices of the peace at such sessions, who shall ceed in the manner hereinafter mentioned."

Mode of reimbursing Chief Constable for Expenses in defending Action, &c.—Reimbursing County Treasurer.] Sect. 7 enacts, "That f such [chief constable, 32 & 33 Vict. c. 47, s. 5, *Note* 15] of the

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15 *Chief Constable to act instead of High Constable.*] By 32 & 33 Vict. c. 47 (which practically abolishes the office of high constable), s. 5, "In 32 & 33 Vict. c. 47, s. 5.

7 & 8 Geo. 4, c. 31.

hundred or other district sued shall produce and prove before a two justices of the peace of the county, riding or division, residi in or acting for such hundred or district, on account of the just a necessary expenses which he shall have incurred in consequence any such action as aforesaid, such justices shall make an order the payment thereof upon the treasurer of the county, riding division in which such hundred or district shall be situate;—anc in any such action judgment shall be given against the plaint the [chief] constable shall in like manner be reimbursed for just and necessary expenses by him incurred in consequence of su action, over and above the taxed costs to be paid by the plaintiff such case;—and if it shall be proved to any two such justices t the plaintiff in the action is insolvent, so that the high consta can have no relief as to such taxed costs, such justices shall ma an order upon the treasurer of the county, riding or division aforesaid, for the payment of the amount of such taxed costs and the justices of the peace at the next general or quarter sessi of the peace to be holden for any such county, riding or division any adjournment thereof, shall direct such sum or sums of mo as shall have been paid or ordered to be paid by the treasurer virtue of any such warrant or order as hereinbefore mentioned be raised on the hundred or other like district against the inha ants of which any such action shall have been brought, over above the general rate to be paid by such hundred or distric common with the rest of the county, riding or division under acts relating to county rates;—and such sum or sums shall raised in the manner directed by those acts, and shall be forthw paid over to the treasurer."

Summary Proceedings before Justices where the Damage does exceed £30.] Sect. 8 enacts, "That it shall not be lawful for person to commence any action against the inhabitants of hundred or other like district, where the damage alleged to h been sustained by reason of any of the offences in this act m tioned shall not exceed the sum of thirty pounds, but the pa damnified shall, within seven days after the commission of offence [see the requirement also in sect. 3, *ante*, p. 1242], gi

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every action to be brought or summary claim to be preferred against hundred or other like district, of which there is no high constable, process for appearance in the action and the notice required in the ca the claim shall be served upon the chief constable or other acting c officer of police for the time being of the county in which such hundre district is situate,—and all matters which by any act the high constab a hundred is authorized or required to do in either of such cases sha done by the officer so served, who shall have the same powers, rights, remedies, and be subject to the same liabilities as any high const would but for the passing of this act have had and incurred under act of parliament, and in case of the termination of his office by deat otherwise, his successor shall act in his stead."

e in writing of his claim for compensation, according to the 7 & 8 Geo. 4,
in the Schedule hereunto annexed [Form, No. 3, Oke's c. 31.
mulist," 6th ed. p. 669], to the [chief, 32 & 33 Vict. c. 47,
constable, 15 or some one of the [chief] constables (if there
re than one) of the hundred 15 or other like district in which
fence shall have been committed;—and such [chief] constable
within seven days after the receipt of the notice, exhibit the
to some two justices of the peace of the county, riding or
on in which such hundred or district shall be situate, residing
acting for such hundred or district, and they shall thereupon
nt a special petty session of all the justices of the peace of the
y, riding or division, acting for such hundred or district, to be
n within not less than twenty nor more than thirty days next
the exhibition of such notice, for the purpose of hearing and
mining any claim which may be then and there brought before
on account of any such damage;—and such [chief] constable
within three days after such appointment, give notice in
g to the claimant, of the day and hour and place appointed
lding such petty session, and shall within ten days give the
notice to all the justices acting for such hundred or district; 17
the claimant is hereby required to cause a notice in writing,
e form in the schedule hereunto annexed, to be placed on the
h or chapel door, or other conspicuous part of the parish,
ship or place in which such damage shall have been sustained,
o *Sundays* preceding the day of holding such petty session."
Forms required to be used under this section, Oke's "*Formu-*
6th ed. pp. 669, 670, Nos. 4—6.] Sect. 9 enacts, "That it shall
lawful for the justices, not being less than two, at such petty
ion or any adjournment thereof, to hear and examine upon oath
firmation the claimant, and any of the inhabitants of the hun-
or other like district, and their several witnesses, concerning
such offence and the damage sustained thereby; and thereupon
said justices, or the major part of them, if they shall find that
claimant has sustained any damage by means of any such
rce, shall make an order for payment of the amount of such
age to him, together with his reasonable costs and charges, and

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16 By s. 7, "When part of any hundred or other like district is within 32 & 33 Vict.
limits of any borough or place having separate police jurisdiction, c. 47, s. 7.
h hundred or district shall, for the purposes of this act, be deemed to
in the county in which the other part of such hundred or district is
ate."

17 7 & 8 Geo. 4, c. 31, s. 10, enacts, "That if any high [*now* "chief,"
ote 15] constable shall refuse or neglect to exhibit or give such notice as
required in any of the cases aforesaid, it shall be lawful for the party
mified to sue him for the amount of the damage sustained, such
amount to be recovered by an action on the case, together with full costs
of suit."

7 & 8 Geo. 4, c. 31.

also an order for payment of the costs and charges (if a [chief] constable or inhabitants [Forms, Oke's "*Formuli* p. 670, No. 7], and shall direct such order or orders to th of the county, riding or division in which such hundred shall be situate, who shall pay the same to the party therein named, and shall be reimbursed for the same in t hereinbefore directed" [in sect. 7, *ante*].

Proceeding in case of Damage to a Church or Chapel, or belonging to a Corporation.] Sect. 11 enacts, "That ever summary claim to recover compensation for the damage any church or chapel by any of the offences in this act shall be brought in the name of the rector, vicar, or cura church or chapel, or in case there be no rector, vicar, or cu in the names of the church or chapelwardens, if there be and if not, in the name or names of any one or more of t in whom the property of such chapel may be vested; amount recovered in any such case shall be applied in the or repairing such church or chapel;—and where any of th in this act mentioned shall be committed on any property to a body corporate, such body may recover compensatio the hundred or other like district, in the same manner an to the same conditions as any person damnified is by this ac to do;—Provided always, that the several conditions w hereinbefore required to be performed by or on behalf of a damnified, may, in the case of a body corporate, be perfo any officer of such body on behalf thereof."

Where Damage is committed in a County of a City, &c. Liberty not in any Hundred, or not contributing to the Cou Sect. 12 enacts, "That where any of the offences in this tioned shall be committed in a county of a city or town, such liberty, franchise, city, town, or place, the inhabitant shall be liable to yield compensation in the same man under the same conditions and restrictions in all respe inhabitants of the hundred; and every thing in this act relating to a hundred, or to the inhabitants thereof, sha apply to every county of a city or town, and to every su franchise, city, town, and place, and to the inhabitants t and where the justices of the peace of the county, riding sion are excluded from holding jurisdiction in any su franchise, city, town, or place, in every such case all th authorities, and duties by this act given to or imposed justices, shall be exercised and performed by the justi peace of the liberty, franchise, city, town, or place in offence shall be committed; and where the offence shall mitted in a county of a city or town, all the like powers, a and duties shall be exercised and performed by the justi

of such county of a city or town;—and in every action to be 7 & 8 Geo. 4, c. 31.
ht or summary claim to be preferred under this act against
habitants of a county of a city or town, or of any such liberty,
ise, city, town, or place, the process for appearance in the
, and the notice required in the case of the claim, shall be
upon some one peace officer of such county, liberty, franchise,
own, or place; and all matters which by this act the [chief]
ble of a hundred is authorized or required to do in either of
ases, shall be done by the peace officer so served, who shall
he same powers, rights, and remedies as such [chief] con-
has by virtue of this act, and shall be subject to the same
ies; and shall, notwithstanding the expiration of his office,
ue to act for all the purposes of this act until the termination
proceedings in and consequent upon such action or claim;
he shall die before such termination, his successor shall act
stead."

e of Reimbursement in Liberties, Cities and Towns not within undred, but contributing to the County Rate.] Sect. 14 enacts, the warrant of the sheriff or other officer upon any writ of ion against the inhabitants of any such liberty, franchise, own, or place, and every order of justices for payment to rty damnified therein, or to the peace officer or inhabitants t, by virtue of this act, shall be directed to the treasurer of unty, riding, or division in which such liberty, franchise, own, or place shall be situate, who is hereby required to pay me; and the justices of the peace of such county, riding, or n, at their next general or quarter sessions of the peace, or journment thereof, shall direct such sum or sums of money ll have been so paid or ordered to be paid by the treasurer to sed on such liberty, franchise, city, town, or place, over and the general rate to be paid by the same in common with the t the county, riding, or division, under the acts relating to rates,—and such sum or sums shall be raised in the manner d by those acts, and shall be forthwith paid over to the rer."

e of Reimbursement in Counties of Cities, and in Liberties, and Towns not contributing to any County Rate.] Sect. 15 , "That all sums of money payable either by virtue of any nt of the sheriff or other officer, or of any order or orders g out of any action or summary claim against the inhabitants y county of a city or town, or of any such liberty, franchise, town, or place, shall be paid out of the rate (if any) in the e of a county rate, or out of any fund applicable to similar ses, where there is such a rate or fund therein, by the trea- or other officer having the collection or disbursement of such r fund;—and where there is no such rate or fund in such

7 & 8 Geo. 4, c. 31.

county, liberty, franchise, city, town, or place, the same paid out of the rate or fund for the relief of the poor of ticular parish, township, district, or precinct therein, w offence was committed, by the overseers or other officers h collection or disbursement of such last-mentioned rate or and in every such case the warrant and orders shall be dir delivered to such treasurer, overseers, or other officers resp instead of the treasurer of the county, riding, or division a may require."

INFANT LIFE PROTECTION.

35 & 36 Vict. c. 38.

The 35 & 36 Vict. c. 38 ("The Infant Life Protection Act after reciting that it is expedient to make better provisio protection of infants entrusted to persons to be nursed or ma for hire or reward, in that behalf enacts a variety of p calculated to carry out the object intended.

As to the Local Authority.] By sect. 1, the words "loc "local jurisdiction," and "local authority," are to mean, in r to the districts mentioned in the first column of the first annexed hereto, the rate, jurisdiction and authority ment the second, third and fourth columns of the said schedul schedule describes such local authorities as follows:

Counties, except the metropolis and city of London—Ju petty sessions.

The metropolis—The Metropolitan Board of Works.

City of London and the liberties thereof—Common Coun

Boroughs—Council.

Houses of Persons retaining or receiving for Hire two o Infants for the purpose of Nursing, to be registered.] By sect enacted, that it shall not be lawful for any person to re receive, for hire or reward, more than one infant, and in twins more than two infants, under the age of one year, purpose of nursing or maintaining such infants apart fro parents for a longer period than twenty-four hours, exce house which has been registered.

Register of Names and Houses to be kept by Local Aut By sect. 3, the local authority are to cause a register to be k which is to be entered the name of every person applying to any house for the purposes of the act, and the situation of such house; and the local authority are, from time to time, t bye-laws for fixing the number of infants who may be receiv each house so registered; and the registration is to remain i for one year; and every person who receives or retains any in contravention of the act is to be guilty of an offence agai act. No fee is to be charged for registration.

Local Authority may refuse to register.]—By sect. 4, the

ty may refuse to register any house unless they are satisfied 35 & 36 Vict.
h house is suitable for the purpose for which it is to be regis- c. 38.
ed unless they are satisfied by the production of certificates
e person applying to be registered is of good character and
maintain such infants.

*s registered to keep a Register of Infants, and to produce it
ufully required.*] The 5th section enacts, that the person
ed is immediately to enter in a register to be kept by him
ne, sex and age of each infant under his care, and the date at
and the names and addresses of the persons from whom they
ceived, and is also to enter the time when, and the names
dresses of the persons by whom, every such infant shall be
d immediately after the removal, and is to produce the said
when required to do so by the local authority; and in default
be liable to a penalty not exceeding £5. The person regis-
to be entitled to receive, gratuitously, from the local autho-
ook of forms for the registration of infants.

ry of Certificate and falsifying Register.] If any person
a false representation with a view to being registered, or
any certificate for the purpose of the act, or makes use of any
certificate knowing it to be forged, or falsifies any register
pursuance of the act, he is to be guilty of an offence against
. Sect. 6.

*l Authority may strike Name and House off Register for
, &c.*] If it shall be proved to the satisfaction of the local
ity that any person whose house has been so registered has
guilty of serious neglect, or is incapable of providing the
entrusted to his care with proper food and attention, or that
use specified in the register has become unfit for the reception
nts, the local authority may strike his name and house off the
r. Sect. 7.

ptions from Provisions of the Act.] The provisions of the act
t to extend to the relatives or guardians of any infant retained
ived as aforesaid, nor to institutions established for the pro-
or care of infants, nor to any person receiving any infant for
rpose of nursing or maintaining such infant under the pro-
s of any act for the relief of the poor. Sect. 13.

nces, how to be prosecuted.] Any offence under the act may
secuted before a court of summary jurisdiction in manner pro-
by the Summary Jurisdiction Acts.

r Forms, &c., under this statute, see Oke's "*Formulist*," 6th ed.
8, 799.)

INTOXICATING LIQUORS.

e two recent statutes of the 35 & 36 Vict. c. 94, and the 35 & 36 Vict.
36 Vict. c. 49 (the Licensing Acts of 1872 and 1874), having c. 94.

35 & 36 Vict. c. 94.

effected considerable alterations in the law relating to the gr of licences and certificates for the sale of intoxicating liquor imposed additional and more responsible duties upon the lic justices, it has been thought desirable to treat the subjec greater elaboration than heretofore.

There are eleven descriptions of houses or liquors for licences are now required to be granted by the licensing ju and these must be obtained before a licence can be taken ou the excise or commissioners of inland revenue for the sale liquors authorized to be dealt in by the keepers or occupiers o houses. The enactments in this division of the subject refer those licences, except where otherwise specially mentioned, and those granted must be confirmed by the confirming authority they are valid. It will be seen that sect. 74 of the 35 & 36 Vict in defining a "licence" includes a certificate, and definitions a there given of "a new licence," "licensing justices," "licensi trict," and clerk of the licensing justices," &c. Further, s. 3 & 38 Vict. c. 49, defines an "occasional licence" and a "new lic

Application for Licences.] The application to the licensin tices for new licences is, as will be hereafter fully explained, made in one mode, under the joint enactments of 35 & 36 Vict sub-s. 1, and 32 & 33 Vict. c. 27, s. 7, as amended by 33 & 3 c. 29, s. 4; and such licences can be granted only at the g annual licensing meeting, or any adjournment thereof, as wa before the passing of the 32 & 33 Vict. c. 27, in cases of al and other licences.

Grant of Licences.] Subject to confirmation as before state grant of licences for alehouses is in the discretion of the ju but in the case of beerhouses and places for the sale by re beer, cider and wine (32 & 33 Vict. c. 27, ss. 8, 19), *or* liqu spirits (35 & 36 Vict. c. 94, ss. 68, 69), *or* sweets (35 & 36 c. 94, s. 74, definition of "licence"), *not* to be consumed o premises, a certificate or licence is not to be refused except grounds stated in 32 & 33 Vict. c. 27, s. 8.

General Proviso as to certain existing Excise Licences.] proviso tacked on to 35 & 36 Vict. c. 94, s. 69, nothing in t "as to the requirement of a justices' licence shall affect the liqueurs or spirits or sweets under any excise licence granted the passing of this act [10th August, 1872] during the contin of such excise licence."

It will be convenient to divide this subject into the foll sections :—

I. *The Qualifications of licensed Houses and Persons.*

II. *Application for and grant of Alehouse Licences.*

III. *Application for and grant of Certificates for the sale of Beer and for the sale of Wine in Confectioners' Shops and Eating Hous licensed by Excise as Refreshment Houses; for the sale of Beer by holders of Strong Beer Licences, and for the sale of Tab*

Application for and grant of Licences for the sale of Wine by Grocers and other Shopkeepers; for the sale of Spirits and Liqueurs by licensed Dealers or Persons holding a wholesale Spirit Dealer's Licence, and of Sweets. 35 & 36 Vict. c. 94.

What Justices to grant and confirm new Licences and Certificates in Boroughs.

Six-day or Week-day, and Early-closing Licences.

Removal of Licences and Certificates from one House or District to another.

Register of Licences and Certificates granted, &c.

Confirmation of grant of new Licences and Certificates by Licensing Committee.

Renewal of Licences and Certificates by Licensing Justices.

Transfer of Licences and Certificates by Licensing Justices.

Hours for opening and closing Premises, and granting Exemptions.

(L) *The Qualifications of Licensed Houses and Persons.*

Sect. 44.

"No licence shall be granted under the Intoxicating Liquor Licensing Acts to any person or in respect of any premises described by or in pursuance of any of the Intoxicating Liquor Licensing Acts or this act to be disqualified persons or disqualified premises during the continuance of such disqualification. Any licence held by any person so disqualified, or attached to premises so disqualified, shall be void."

Disqualified Persons.] The disqualified *persons* by the *earlier* acts are:—A sheriff's officer, or officer executing the legal process of any court of justice (9 Geo. 4, c. 61, s. 16); a person not being a householder assessed to the poor-rates in the parish or place in which he shall be licensed to sell beer by retail (1 Will. 4, c. 64, s. 1); persons convicted of a third offence, &c. under 9 Geo. 4. c. 61, s. 1, or 1 Will. 4, c. 64, s. 13; persons convicted after 7th August, 1848, of felony, or of selling spirits without licence, from selling beer and cider by retail (3 & 4 Vict. c. 61, s. 7); or convicted after 1st June, 1860, of like offences, from selling wine by retail (23 & 24 Vict. c. 27, s. 22); persons making use of forged justices' certificate, in obtaining a licence for the sale of beer, cider or wine by retail (23 & 33 Vict. c. 27, s. 11); persons convicted of felony, from selling spirits by retail (33 & 34 Vict. c. 29, s. 14). The disqualified persons by *this act* are, under sect. 3, selling intoxicating liquors without licence; under sect. 15, permitting the licensed premises to be a brothel; under sect. 19, for adulterating liquors; and under sect. 30, on a third conviction, the two previous having been recorded on his licence.

Disqualified Premises.] The instances in which *premises* have been or may be disqualified are,—on convictions under 1 & 2 Will. 4, c. 64, s. 13, or under the 35 & 36 Vict. c. 94, viz.,—sect. 19, where licensed person is convicted of adulterating intoxicating liquor; under sect. 30, on his third conviction, the two previous convictions

35 & 36 Vict. c. 94.

having been recorded on his licence; and under sect. 31, u fourth conviction, for any offence within five years, applicabl to persons licensed after 10th August, 1872.

Sect. 45.

Qualification of Premises for Licences.] "Premises to whi the time of the passing of this act no licence under the acts r in the Wine and Beerhouse Act, 1869, authorizing the sale of or wine *for consumption thereupon*, is attached, shall not be su to any of the provisions *now in force* prescribing a certain re value or rating as a qualification for receiving any such licen

"Premises *not* at the time of the passing of this act licensed f sale of *any* intoxicating liquor for *consumption thereupon* shall n qualified to receive a licence authorizing such sale unless th lowing conditions are satisfied:

(*a.*) The premises, unless such premises are a railway refresh room, shall be of not less than the following annual val

If situated within the city of London or the lib thereof, *or* any parish or place subject to the jurisd of the Metropolitan Board of Works, *or* within the mile radius from Charing Cross, *or* within the lim a town containing a population of not less tha hundred thousand inhabitants, fifty pounds per an —or if the licence do not authorize the sale of s thirty pounds per annum:

If situated elsewhere and within the limits of a tow taining a population of not less than ten tho inhabitants, thirty pounds per annum;—or if the li do not authorize the sale of spirits, twenty poun annum:

If situated elsewhere and not within any such to above mentioned, fifteen pounds per annum;—or licence do not authorize the sale of spirits, t pounds per annum:

(*b.*) *Houses to be structurally adapted.*] The premises shall the opinion of the licensing authority, structurally ad to the class of licence for which a certificate is soug provided that no house, not licensed at the time of the pa of this act for the sale of any intoxicating liquor fo sumption on the premises, shall be qualified to have a li attached thereto, authorizing such sale, unless such shall contain, exclusive of the rooms occupied by the in of such house, if the licence authorize the sale of spirit rooms, and if the licence do not authorize the sale of s one room, for the accommodation of the public."

Provisions in force on 10th August, 1872, as to Rating Qualifi for Houses for the sale of Beer and Cider for Consumption on or Premises.] The provisions in force on 10th August, 1872, as

:value or rating for beerhouses are contained in the acts here- 35 & 36 Vict.
:mentioned (unrepealed). The 3 & 4 Vict. c. 61, s. 1, enacts,— c. 94.
: :s licence to sell beer or cider by retail under the said re-
:cts [1 Will. 4, c. 64, and 4 & 5 Will. 4, c. 85] or this act shall
:ted to any person who shall not be the real resident holder
:cupier of the dwelling-house for which he shall apply to be
:d,—nor shall any such licence be granted in respect of any
:g-house which shall not, with the premises occupied there-
:be rated in one sum to the rate for the relief of the poor of
:rish, township, or place in which such house and premises
:uate on a rent or annual value of fifteen pounds per annum
:least if situated in the cities of London or Westminster, *or*
: any parish or place within the bills of mortality, *or* within
:ity, cinque port, town corporate, parish, or place, the popula-
:f which according to the last parliamentary census shall exceed
:ousand, *or* within one mile, to be measured by the nearest
: street or path, from any polling place used at the last elec-
:for any town having the like population, and returning a
:ber or members of parliament;—nor shall any such licence be
:ed in respect of any dwelling-house which shall not, with the
:ises occupied therewith, be rated in one sum to the rate for the
:l of the poor of the parish, township, or place in which such
:e and premises are situate on a rent or annual value of eleven
:ds per annum, if situated within any city, cinque port, town
:rate, parish or place, the population of which according to such
:parliamentary census shall exceed two thousand five hundred
:shall not exceed ten thousand, *or* within one mile, to be
:sured as aforesaid from any polling place used at the last elec-
:for any town having the like population as last aforesaid, and
:rning a member or members of parliament;—nor shall any
: licence be granted in respect of any dwelling-house which
:l not, with the premises occupied therewith, be rated in one
: to the rate for the relief of the poor of the parish, township, or
:e in which such house and premises are situate on a rent or
:al value of eight pounds, if situated elsewhere than as afore-
:l;—and every licence granted contrary hereto shall be null and
:d."

:he 33 & 34 Vict. c. 111, corrected a misapprehension of the
:ding of this enactment, and enacted (as to houses licensed on
:h August, 1870, or renewed, sect. 2), in sect. 1, that "A dwel-
:g-house, if situated within a township for which a separate poor-
:e is or can be made, or within a hamlet for which a separate
:or-rate is or can be made, shall, for the purpose of determining
: reference to population, in accordance with the first . . .
:tion . . . of the said act, the rating qualification . . .
:plicable to such house as a house for the sale of beer or cider, be

35 & 36 Vict. c. 94.

deemed to be within such township or hamlet, as the case m and not within any larger area of which such township or h forms a part."

3 & 4 Vict. c. 61, s. 4, enacts (the part unrepealed by 32 Vict. c. 27, s. 21), that "it shall be lawful for the proper offic excise authorized to grant a licence to any p to retail beer or cider in a dwelling-house, which, with the pre occupied therewith, shall be of the real rent or annual va fifteen pounds, eleven pounds, or eight pounds respect according to the situation thereof as aforesaid."

Strong Beer Dealer's Licence.] The 33 & 34 Vict. c. 29, s. 10 vided in respect to a beer dealer's additional retail licence, th certificate for an additional licence to the holder of a strong dealer's licence to retail beer under the provisions of the 26 Vict. c. 33, shall not after the passing of this act (14th July, except by way of renewal from time to time of a certificate in at the time of the passing of this act, be granted unless up like proof of qualification according to rating as is required case of licences to retail beer for consumption on the premises the provisions of the acts recited in the principal act (32 & 33 c. 27) for permitting the general sale of beer and cider by re England." See also 37 & 38 Vict. c. 49, s. 31.

Refreshment-Houses.]—As regards refreshment-houses licen sell foreign wine, the 23 Vict. c. 7, s. 8 (unrepealed), provide "no licence to sell foreign wine by retail to be consumed premises shall be granted for any refreshment-house which, w premises belonging thereto and occupied therewith, shall be the rent and value of ten pounds a year,—nor for any refresh house situated in any city, borough, town, or place contain population exceeding ten thousand according to the then las liamentary census, if such refreshment-house, with the pr belonging thereto and occupied therewith, shall be under th and value of twenty pounds a year." The 24 & 25 Vict. c. 9 which regulated the amount of licence duty in respect to houses according to the rating does not alter the amount of r value here provided, nor does the 35 & 36 Vict. c. 94, s. 45.

Mode of Ascertaining "Annual Value."] As to the mode of taining the annual value, 35 & 36 Vict. c. 94, s. 47, enacts,— licensing justices shall take such means as may seem to them for ascertaining the annual value of any premises for the pu of this act, and may, if they think fit, order a valuation to be of such premises by a competent person appointed by them purpose, and may order the costs of such valuation to be p the applicant for a licence (which can be recovered under se last paragraph). The annual value of premises for the pu of this act shall be the annual rent which a tenant might b

expected, taking one year with another, to pay for the 35 & 36 Vict.
f he undertook to pay all tenant's rates and taxes, tithe c. 94.
ation rent-charge (if any), and if the landlord undertook to
e cost of the repairs and insurance and other expenses (if
cessary to maintain the premises in a state to command the
nt, and if no licence were granted in respect thereof; but no
hall be included in such premises other than any pleasure
s or flower or kitchen garden, yard, or curtilage usually
nd occupied and used by the persons residing in and fre-
ng the house."

he Metropolis, by 32 & 33 Vict. c. 67, s. 45, the Valuation
r the time being in force shall be conclusive evidence of the
alue and the rateable value of the several hereditaments
ed therein, for the purposes of determining, as far as it is
able, the value of any hereditaments included therein, for the
ses of the acts relating to the sale of exciseable liquors, at any
t which such value is required to be ascertained.

ntaining Population.] As to the population, 35 & 36 Vict. Sect. 65.
. 65, enacts,—"The population of any area for the purposes
is act shall be ascertained according to the last published
s for the time being." The definitions of "town" in sect. 74,
in sect. 32 of the 37 & 38 Vict. c. 49, remove many questions
h arose on the rating qualification of premises.

nual Value necessary for obtaining grant of Licence under Wine Sect. 46.
Beerhouse Acts.] "Whereas in certain cases a licence under
Wine and Beerhouse Acts, 1869 and 1870, is not to be granted
n the house and premises in respect of which such licence is
ted, are of such rent and value or are rated to the poor-rate
rent or annual value of such amount as is respectively in that
lf stated in the acts recited in the Wine and Beerhouse Act,
); and it is expedient to substitute in such cases 'annual value'
he said rent, value, or rating, and to provide for the ascertain-
the annual value of such houses and premises:—be it there-
enacted that *in cases not provided for by the last preceding*
ion—

future licensed Premises to be of certain Annual instead of Rateable
lue.] "A licence under the Wine and Beerhouse Acts, 1869 and
0, shall not be granted in respect of any premises which are
, in the opinion of the licensing justices who grant such licence,
such annual value as is mentioned in that behalf in the acts
ited by the Wine and Beerhouse Act, 1869;—and those acts
all be construed as if 'annual value' were therein substituted
'rent,' 'value,' 'rated on a rent or annual value,' and other
e expressions."

Old Licensed Premises to be made of sufficient Value, and Licence
newed conditionally.] "If at the *first* general annual licensing

35 & 36 Vict. c. 94.

meeting after the passing of this act the licensing justices a opinion that any premises which are licensed for the sale o toxicating liquors at the passing of this act are not of *such a value as authorizes the grant* of a licence for such premises, *may*, notwithstanding, *renew* such licence upon the condition, expressed in the licence, that the holder thereof, before the general annual licensing meeting, improves the premises so make them of sufficient annual value,—and if the holder fa comply with such condition the licence shall not be renewe such next general annual licensing meeting."

Construction of Sections 45 *and* 46.

[*As to Beer and Wine Licences mentioned in Sect.* 3; *see p* The first paragraph of sect. 45 means that new houses,—those licensed on the 10th August, 1872, for consumption *on* the prem —are not to be subjected to the old rating qualification; but ins thereof they will come under the operation of the new annual v as laid down in the following paragraphs of that section, and t additional requirement of the last paragraph as to the struct adaptation of the premises in order to provide sufficient room the customers. The same regulations as to annual value will a to houses to be licensed for consumption *off* the premises, whic the case of the sale of *wine* did not require, nor do they now, a ra qualification (23 Vict. c. 27, s. 8). The whole of sect. 46 is conf to the same houses, being those for which certificates were be grantable by justices under the acts referred to. If any of t *before* licensed are not (at the time of renewal) of the "an value" required by the second paragraph of sect. 46, to be as tained by the justices under sect. 47, they must be brought u it in a year, and the justices may renew the licences on that dition as provided by the last paragraph of that section;— object of that enactment being to bring up the old houses to true annual value, and put an end to the local influences w may have caused worthless houses or cottages to be rated al their value. Failing to improve the houses, the licences wi lost next year. As regards *new* licences for such houses, whe for consumption *on* or *off* the premises, they must also be of new "annual value" as required by the second paragraph of s 46, at the time of the "grant." The higher value in the sec paragraph and sub-sect. of sect. 45, is not applicable to ho licensed under these for consumption *on* the premises (it ca from its context apply to houses for *off* consumption), other there would have been no necessity for the enactment in sect. 4 to the "annual value" required on granting licences for s houses generally.

As to New Licences mentioned in Sect. 4; *see post.*] Premises

g the new licences for the first time authorized to be granted 35 & 36 Vict. c. 94.
stices by the 35 & 36 Vict. c. 94, *i. e.*, for wine, spirits, rs, or sweets (sweets only being for consumption *on* as well . the others being *off* the premises), will not require any l value qualification, although those for spirits and liqueurs ibject, as stated in sects. 68 and 69, to the same grounds of ion upon which the grant of licences for wine *not* to be con- l on the premises may be refused (one of which grounds is alification of the applicant "*or* the house;" see 32 & 33 c. 27, s. 8), because the 23 Vict. c. 27, as to such wine es did not require the rating qualification where the wine was be consumed on the premises (see 23 Vict. c. 27, s. 8).

regards Alehouses: infra.] This seems a simple matter. Ale- s before the 10th August, 1872, required no rating or other fication for a licence. Houses having licences at that date remain as they are during the existence of those licences, as c. 46 does not apply to them in any way. Houses requiring icences must be of the annual value prescribed by the second graph of sect. 44, and its sub-paragraphs.

t. 46 does not apply to alehouses already licensed under 9 Geo. 61, as they must be taken to have been exempted by sect. 45 the provisions in force as to value. Justices have no power pose a condition that the licensed premises should, before the general annual licensing meeting, be improved and made of annual value of 30*l.*, or that, in default, the licence should not be renewed. *Semble*, part of a licence cannot be quashed upon certiorari without quashing the whole (*Reg.* v. *Exeter JJ.*, *Ex parte* s, L. R., 8 Q. B. 235; 27 L. T., N. S. 847; 42 L. J. (N. S.) . 35).

(II.) *Application for and grant of Alehouse Licences.*

icence for an Inn, &c.] This is as to a licence "to keep an inn, ouse, and victualling-house, to sell exciseable liquors by retail, e drunk or consumed on the premises;" "exciseable liquors" g defined by 9 Geo. 4, c. 61, s. 37, "to include any ale, beer or er fermented malt liquor, sweets, cider, perry, wine, or other ituous liquor which now is or hereafter may be charged with y either by customs or excise." An inn being defined by the e section to be "any inn, alehouse or victualling-house." In & 27 Vict. c. 41, as to the liability of innkeepers for the goods their guests, it is different.

Innkeepers take out four excise licences:—1. Beer, cider and ry; 2. Foreign spirit; 3. Foreign wine; and 4. British wine or ad, or metheglin, denominated "sweets" by the licence laws.

General Licensing Meeting to be held annually.] The 9 Geo. 4, c. . s. 1, enacts, "that in every division of every county and riding,

35 & 36 Vict. c. 94.

and of every division of the county of Lincoln,—and in hundred of every county, not being within any such division,- in every liberty, division of every liberty, county of a city, co of a town, city and town corporate in that part of the united dom called England,—there shall be annually holden a sp session of the justices of the peace (to be called the general an licensing meeting), for the purpose of granting licences to pe keeping or being about to keep inns, alehouses, and victual houses, to sell exciseable liquors by retail, to be drunk or cons on the premises therein specified; and that such meetings sh holden in the counties of Middlesex and Surrey within the firs days of the month of March,—and in every other county on day between the twentieth day of August and the fourteenth d September inclusive;—and that it shall be lawful for the ju acting in and for such county or place assembled at such mee or at any adjournment thereof, and not as hereinafter disqua from acting, to grant licences for the purposes aforesaid, to persons as they the said justices shall, in the execution o powers herein contained, and in the exercise of their discr deem fit and proper."

Powers and Duties of Licensing Justices.] The licensing ju have merely power to grant or withhold a licence, and cannot pend it over the time at which it is to commence according t act; neither should they refuse to hear an application becaus justices have determined not to grant any more licences (*Re Walsall*, 24 Law T. 111); nor can they by a general resolutio termine not to grant or renew the licences of all such persons shall not consent to take out an excise licence for the sale of s in addition to the beer licence (*Reg.* v. *Sylvester*, 31 L. J. (N M. C. 93; 5 Law T., N. S. 794; see also *Modlen* v. *Snowball*, 31 (N. S.) M. C. 87; Chan. 44. The justices having authority to the licences "to such persons as they the said justices shall i execution of the powers herein contained, and in the exercise of discretion, deem fit and proper," cannot grant a licence to a and spirit merchant in respect of premises which he does not oc as an inn or hotel (*Reg.* v. *Wilkinson*, 10 Law T., N. S. 370), as would appear to contravene the 24 & 25 Vict. c. 21, s. 2, appli to such cases, nor, according to the opinion of eminent counsel minor a "fit and proper person" to be licensed under the act. *ante*, p. 1164, for a reference to the acts disqualifying certain pe from holding any licence. They may also refuse to grant it there are sufficient licensed houses already for the requiremen the district (*Reg.* v. *Justices of Lancashire*, 40 L. J. (N. S.) M. C It should be stated that 9 Geo. 4, c. 61, s. 17, enacts, "that no li for the sale of any exciseable liquors by retail, to be drunk or sumed on the premises of the person licensed, shall be grante

ommissioners of excise, or by any officer of excise, to any per- 35 & 36 Vict. c. 94.
whatsoever, unless such person shall have previously obtained the justices a licence under this act, and which said licence of justices shall be retained by such person, after being produced e commissioners or officers of excise;—and every licence granted he commissioners of excise, or by any officer of excise, contrary is provision, shall be null and void to all intents and purposes." e grounds of refusal to grant licences in the 32 & 33 Vict. c. 27, have no application to alehouses, for before 35 & 36 Vict. c. 94, needed no value or any other qualification; but in future the uses must be of the annual value and structural adaptation re- ed by the second and following paragraphs of sect. 45.

the City of London.] By long usage the general annual licens- meeting for the city of London is held on the *second* Monday of month of March, 9 Geo. 4, c. 61, s. 36, providing (*inter alia*) that ing in the act shall extend "to alter the time of granting nces for keeping inns in the city of London."

Time and Place, how General Annual Licensing Meeting to be ap- ted—Notice of Meetings to be given.] "In every such division or ce as aforesaid there shall be holden, twenty-one days at the least ore each such general annual licensing meeting, a petty session the justices acting for such county or place, the majority of whom n present shall, by a precept under their hands, appoint the day, ur, and place upon and in which such general annual licensing eting for such division or place shall be holden, and shall direct h precept to the high constable [read now "clerk to the licensing tices"] of the division or place for which such meeting is to be lden, requiring him, within five days next ensuing that on which shall have received such precept, to order the several petty con- bles or other peace officers within his constablewick to affix or use to be affixed on the door of the church or chapel, and where ere shall be no church or chapel on some other public and con- ious place within their respective districts, a notice of the day, ur and place at which such meeting is appointed to be holden, and give to or to leave at the dwelling-house of each and every justice ting for such division or place, and of each and every person keep- g an inn, or who shall have given notice of his intention to keep a inn, and to apply for a licence to sell exciseable liquors by retail, be drunk or consumed on the premises, within their respective tricts, a copy of such notice."

Mode of giving Notice of Licensing Meeting.] Since the passing the High Constables Act, 1869 (32 & 33 Vict. c. 47), which practically abolishes the office of high constable, as regards the general annual licensing meeting and all special sessions of jus- tices, the practice of giving notice of these meetings is altered, the clerk to the justices being placed in the position of the high con-

35 & 36 Vict. c. 94.

stable by sect. 3 of the act, which enacts,—"It shall be the d of the clerk to the justices of the peace in each petty sessio division, other than those which are either wholly or partly wi the metropolitan police district or the city of London, *to sen post to the proper parties* in such division all notices of the hold of special or other sessions, of days of appeal, and of any o matter or thing (except such as relate to claims against the h dred or other like district, or to parliamentary or municipal e tions, or the registration of electors) of which notices are now law or custom served upon or sent to any parochial officer or o person by high constables,—and no precept or notice to perf any such duty in any such division shall hereafter be issued to high constable after the passing of this act." The practice is for the justices to address a precept to their clerk in the same as before usually directed to the high constable, the clerk addres an order to the superintendent of police, with the notice to be vered to other parties, or affixed on church doors, &c., for the w in the section "*send* by post *to the proper parties*," cannot be ap to notices required to be affixed on the doors of the churches, &c., therefore it will be convenient still to employ the constable as be in these cases. Notices of the holding of any special sessions be signed by any one justice and sent by post to all the other tices of the bench (7 & 8 Vict. c. 33, s. 7). The fees of the just clerks will not be affected by the new mode; but in some cou the superintendents of police are engaged in serving these no by order of the quarter sessions, and then the fees are paid by justices' clerk to the police fund. If a parish constable, appo under the Parish Constables Act, 1872 (35 & 36 Vict. c. 99 employed in these cases, the fees would be payable to the p (see sect. 7).

It will also be seen by 35 & 36 Vict. c. 94, s. 70, that some o notices under 9 Geo. 4, c. 61, s. 2, may be sent *by post, i. e.*, to be sent to justices and innkeepers and those proposing t licensed.

When in Liberties, &c. Two Justices not disqualified do not at the County Justices may act.] As to the licensing justices in ce liberties, and in the cinque ports, there are the following en

9 Geo. 4, c. 61, s. 7.

ments:—"Whenever at any of the meetings to be holden as a said for any liberty, county of a city, county of a town, cit town corporate, there shall not be present at least two jus acting in and for any such liberty, county of a city, county town, city, or town corporate, who are not disqualified, it sha lawful for the justices acting in and for the county or cou adjoining to such liberty, county of a city, county of a town, or town corporate, and not disqualified from acting, to act w such liberty or place, and with the justice or justices thereof n

before disqualified, who shall be present at any such meeting resaid, for the purpose of granting or transferring licences or of hearing complaints as to offences against this act, any ustom, or usage to the contrary notwithstanding." 9 Geo. 4. c. 61, s. 7.

ers hereby given to the Justices of the County not to extend to the Ports.] "Nothing herein contained shall extend to give the s of the county or any division thereof any power or authority putting of the provisions of this act in execution within any cinque ports *or* either of the two ancient towns, *or* any of the ate or other members or liberties of the cinque ports or two it towns,—but that it shall be lawful for the justices of and ch of the principal cinque ports and two ancient towns, and hereinbefore disqualified from acting, and none other, to act a and for the same and the liberties thereof not corporate tively as they have been accustomed, and for them or any of (not so as last aforesaid disqualified) to act within each of the nate members immediately belonging or subordinate to such ipal cinque port or ancient town, with the justice or justices of such corporate member (not so as last aforesaid disqualified), he purpose of granting or transferring licences under or of ing complaints as to offence against this act, in all such cases hich the justices of the county are hereinbefore [*i. e.*, in sect. 7] swered or authorized to act with the justice or justices of any ty, county of a city, county of a town, city, or town corporate." Sect. 8.

y the act "to facilitate the execution of justice within the ne ports," 51 Geo. 3, c. 36 (1811), the cinque ports justices not to act in granting licences to victuallers within the towns Hastings, Sandwich, Dover near Romsey, Hythe, Rye, Winhea, Pevensey, Seaford, Lydd, Folkestone, Faversham, Fordh, Tenterden and Deal. By sect. 5, the justices of Essex are horized to grant such licences in Brightlingsea, in that county ning part of Sandwich; and by sect. 8, the justices of Kent in ikesbourne and Grange in that county, forming part of Hastings.

uestions respecting Licences to be determined, and Licences to be ed, by the Majority of the Justices at the Meeting.] "When (at of the meetings aforesaid) any question touching the granting, thholding, or transferring any licence, or the fitness of the person plying for such licence, or of the house intended to be kept by ch person, shall arise, such question shall be determined by the ajority of justices not disqualified, who shall be present when such estion shall arise:—and every licence granted under the authority this act shall be signed by the majority of the justices not disalified who shall be present when such licence shall be granted." Sect. 9.

This requirement, as to signing the licences, need not now be hered to unless the justices think best, and do not adopt the permissive mode authorized by 33 & 34 Vict. c. 29, s. 4, sub-s. 2, which

35 & 36 Vict. c. 94.

by 35 & 36 Vict. c. 94, s. 40, sub-s. 3, there given, is applied every licence, including those granted for alehouses under 9 Geo c. 61.

9 Geo. 4, c. 61, s. 3.

Adjournment of General Annual Licensing Meeting.] "It shall lawful for the justices acting at the general annual licens meeting, and they are hereby required to continue such meet by adjournment to such day or days, and to such place or pla within the division or place for which such meeting shall be hold as such justices may deem most convenient and sufficient for e bling persons keeping inns within such division or place to ap for such licence:—Provided nevertheless, that the adjourned meet to be holden next after such general annual licensing meeting sl not be so holden in or upon any of the five days next ensuing t on which such general annual licensing meeting shall have b holden as aforesaid;—and that every adjournment of the s general annual licensing meeting shall be holden within the mo of March in the counties of Middlesex and Surrey, and of Aug or September in every other county."

Sect. 5.

Notice to be given of the Adjournment of the General Annual Lic ing Meeting and Special Sessions.] "Whenever the justices s have ordered any such adjournment of the general annual licens meeting, or shall have appointed such special sessions as afores the day, hour, and place for holding every such adjourned mee and every such special session shall be appointed by precept of majority of the said justices directed to the high constable [now 'clerk of the licensing justices'], requiring notices, simila form to those given at the general annual licensing meeting, t affixed on the door of the church or chapel, or on some other pu and conspicuous place and to be served upon the same parties."

37 & 38 Vict. c. 49, s. 26.

"It shall not be necessary to serve copies of notices of any journment of a general annual licensing meeting on holder licences or applicants for licences who are not required to at at such adjourned annual general licensing meeting."

Regulations as to Application for new Licences.] The manne applying for the alehouse licence and the notice required are regulated by the joint operation of 35 & 36 Vict. c. 94, s. 40, sub- and 32 & 33 Vict. c. 27, s. 7, as amended by 33 & 34 Vict. c s. 4, sub-s. 1, the previous provision in 9 Geo. 4, c. 61, s. 10, b repealed. By the 35 & 36 Vict. c. 94, s. 40, "every person tending to apply for a new licence,—or to apply for the transf a licence,—shall publish notice of such application as follows: is to say,

Sect. 40 (in part).

(1.) In the case of a new licence, he shall cause notice there be given and to be affixed and maintained in ma directed by section seven of the Wine and Beerhouse 1869, and any enactment amending the same, and

advertise such notice in some paper circulating in the place in which the premises to which the notice relates are situate, on some day not more than four and not less than two weeks before the proposed application, and on such day or days, if any, as may be from time to time fixed by the licensing justices." 35 & 36 Vict. c. 94. 37 & 38 Vict. c. 49, s. 26.

ent Mode of Application for all *new Licences.*] The 32 & 33 . 27, s. 7, referred to in the above sub-sect. 1, is as follows, he amendments made by 33 & 34 Vict. c. 29, s. 4, sub-s. 1, & 38 Vict. c. 49, s. 22, introduced in their proper places:— ry person intending to apply to the justices for a certificate this act shall, twenty-one days at least before he applies, otice in writing of his intention to one of the overseers of the , township or place in which the house or shop in respect of his application is to be made is situate, and to [the superdent of the police of the district, 33 & 34 Vict. c. 29, s. 4, . 1],—and shall in such notice set forth his name and address, description of the licence or licences for which he intends to , and of the situation of the house or shop in respect of which pplication is to be made;—and in the case of a house or shop heretofore licensed for the sale by retail of beer, cider or wine, person shall also, within the space of twenty-eight days before application is made, cause a like notice to be affixed and mainsd, between the hours of ten in the morning and five in the noon of two consecutive Sundays, on the door of such house or , and on the principal door or on one of the doors of the church hapel of the parish or place in which such house or shop is ate, or, if there be no such church or chapel, on some other lic and conspicuous place within such parish or place." 32 & 33 Vict. c. 27, s. 7.

rovisional Grant and Confirmation of Licences to new Premises.] ny person interested in any premises about to be constructed or ourse of construction for the purpose of being used as a house the sale of intoxicating liquors to be consumed on the premises y apply to the licensing justices and to the confirming authority the provisional grant and confirmation of a licence in respect of h premises; and the justices and confirming authority, if satisd with the plans submitted to them of such house, and that if ch premises had been actually constructed in accordance with th plans they would, on application, have granted and confirmed ch a licence in respect thereof, may make such provisional grant d order of confirmation accordingly. 37 & 38 Vict. c. 49, s. 22.

"A provisional grant and order of confirmation shall not be of y validity until it has been declared to be final by an order of the nsing justices made after such notice has been given as may be quired by the justices at a general annual licensing meeting or a pecial sessions held for licensing purposes. Such declaration shall

35 & 36 Vict. c. 94.
37 & 38 Vict. c. 49, s. 22.

be made if the justices are satisfied that the house has been com-pleted in accordance with such plans as aforesaid, and are als satisfied that no objection can be made to the character of th holder of such provisional licence.

"A provisional grant and confirmation of a licence shall be sub ject to the same conditions as to the giving of notices and generall as to procedure to which such grant and confirmation would b subject if they respectively were not provisional, with this excep tion, that where a notice is required to be put up on a door of house such notice may be put up in a conspicuous position on an part of the premises.

"This section shall, with the necessary variations, extend to th provisional removal to any premises of an existing licence unde section fifty of the principal act."

The applicant may give the notice for the adjourned meeting he applies then, which he may do (*Reg.* v. *Justices of W. R. York shire*, 39 L. J. (N. S.) M. C. 17; 21 Law T., N. S. 490); but if th application is refused at the annual meeting, justices may declin to entertain another application at the adjourned meeting, althoug fresh notices have been given (*Ex parte Rushworth*, 23 Law T N. S. 120).

9 Geo. 4, c. 61, s. 12.

Attendance of Applicant for new Licence at General Annu Licensing Meeting.] The applicant for a licence should attend i person at the general annual licensing meeting or adjournment but the 9 Geo. 4, c. 61, s. 12, enacts,—"That if any person in tending to apply at the general annual licensing meeting, or at an adjournment thereof, or at any special session, for any licence to b granted under the authority of this act,—or for the transfer of an such licence,—shall be hindered by sickness or infirmity, or by an other reasonable cause, from attending in person at any suc meeting, it shall be lawful for the justices there assembled to gran or transfer such licence to such person so hindered from attending and to deliver the same to any person then present who shall b duly authorized by the person so hindered from attending to receiv the same, proof being adduced to the satisfaction of such justice who are hereby empowered to examine upon oath into the matt of such allegation, that such person is hindered from attending b good and sufficient cause." But by 35 & 36 Vict. c. 94, s. 4 sub-s. 1, when a person applies for the *renewal* of his licence "h need not attend in person at the general annual licensing meetin unless he is required by the licensing justices so to attend;" bu this requisition is only to be made for special cause personal to th licensee, 37 & 38 Vict. c. 49, s. 26.

Sect. 43.

Opposing Grant of new Licence.] By sect. 43 of the same ac "any person who appears before the licensing justices and oppos the grant of a new licence, and no other person, may appear an

e confirmation of such grant by the confirming authority 35 & 36 Vict. c. 94.
es or boroughs."

in pursuance of this section as to the proceedings to be 37 & 38 Vict. c. 49, s. 25.
for confirmation of new licences, and as to costs, are to be
the joint committee, when such committee is the confirm-
ority.

titled to oppose the Grant.] As to who is entitled to oppose
: of a new licence, the practice in the metropolitan district,
ems everywhere, has been to allow neighbouring publicans,
ther persons who can make out a case to do so, which pro-
: is understood, from the supposition that the published
f the application is intended to invite all persons who can to
rward and show cause against the grant. The opposition to
rant of a licence is usually (but not invariably) confined to
ce authorities.

ppeal against Refusal to grant a new Licence.] If the justices
to grant a new licence (and they need not give reasons),
now no appeal, as the 9 Geo. 4, c. 61, s. 27, is repealed in
spect; but if they grant, it will not be valid until it is con-
under sect. 37. There is an appeal against the refusal to
or transfer licences under 9 Geo. 4, c. 61, ss. 4, 14.

s to be prescribed by Secretary of State.] The 35 & 36 Vict. 35 & 36 Vict.
. 48, enacts,—"The following regulations shall be made with c. 94, s. 48.
t to licences:

very licence granted after the commencement of this act shall
be in such form as may from time to time be prescribed by a
secretary of state."

thentication of Licences.] The authentication of licences is
led for by 9 Geo. 4, c. 61, s. 9, and 35 & 36 Vict. c. 94, s. 40,
. 3, the latter incorporating 33 & 34 Vict. c. 29, s. 4, sub-s. 2.
enactments are permissive, and either the mode of signing by
majority of justices under the former, or by an official seal, &c.
r the latter, may be adopted. The 35 & 36 Vict. c. 94, s. 40,
. 3, enacts:—"Any licence may be authenticated in manner
hich a certificate may be authenticated in pursuance of sub-
n two of section four of 'The Wine and Beerhouse Act Amend-
t Act, 1870,' and the provisions of the said sub-section shall
y accordingly." The enactment so incorporated is as follows:
here a certificate is now required to be signed by a majority of
ices, it shall be sufficient if, instead of such signature, the con-
rence of such majority be signified by means of an impression
n an official seal or stamp, in such form as the justices may
rt, affixed in the presence of the justices in sessions assembled,
l verified in the case of each certificate by the signature of their
k. Any seal purporting to be so affixed and verified shall be
eived in evidence without further proof;—and if any unautho-

35 & 36 Vict. c. 94.

rized person imitate or affix an impression of such seal or ficate or imitation of a certificate, or knowingly use a ce imitation of a certificate falsely purporting to be sealed in of this section, he shall be guilty of forgery."

Six-day Licences.] As to the condition to be inserted i and early-closing licences, see 35 & 36 Vict. c. 94, s. & 38 Vict. c. 49, s. 7.

(III.) *Application for and Grant of Certificates for the Sa and Cider; for the Sale of Wine in Confectioners' S Eating Houses when licensed by Excise as Refreshme for the Sale of Bottled Beer by holders of Strong Bee and for the Sale of Table Beer.*

Certificates for all these houses and purposes were, b passing of the 35 & 36 Vict. c. 94, authorized to be grante tices under the Wine and Beerhouse Acts, 1869, 1870 Vict. c. 27, and 33 & 34 Vict. c. 29).

The Wine and Beerhouse Act, 1869, recited that "by relating to the general sale of beer and cider by retail in E that is to say:

11 Geo. 4 & 1 Will. 4, c. 64;
4 & 5 Will. 4, c. 85;
3 & 4 Vict. c. 61;
24 & 25 Vict. c. 21;

provision is made for the grant of licences by the excise for by retail of beer and cider upon the terms and conditions specified." And that by the 26 & 27 Vict. c. 33, s. 1, "it is e that any person who, after the passing of that act, has taken excise licence to sell strong beer in casks containing not le four and a half gallons, or in not less than two dozen reputed bottles at one time, to be drunk or consumed elsewhere than premises, may take out an additional licence on payment excise duties therein mentioned, and that the same shall au such person to sell beer in any less quantity and in any manner than as aforesaid, but not to be drunk or consum the premises where sold, and that such additional licence sh granted without the production of any certificate, or the session of any other qualification than the licence therein mentioned:"

And that "provision is made for the grant of licences b excise for refreshment houses and for the sale of wine by and for other purposes," by the act 23 Vict. c. 27:

And that "it is expedient to make better provision with r to the granting of the licences hereinbefore mentioned, an regulating the houses and shops in which beer, cider and win sold by retail."

Licences not to be granted without Certificate granted under 35 & 36 Vict. c. 94.
.] The 32 & 33 Vict. c. 27, s. 4,—"from and after the 32 & 33 Vict. c. 27, s. 4.
h of July, 1869, no licence or renewal of a licence *for the retail of beer, cider or wine*, or any of such articles, under visions of any of the said recited acts, shall (save as is in t otherwise provided) be granted except upon the produc- :d in pursuance of the authority of a certificate granted this act.

y licence granted or renewed in contravention of this enact- hall be void."

description of the certificates to be granted by the justices restricted than in the recital which refers to all "the licences before mentioned" in that recital, and therefore excludes the s to keep a refreshment house in which neither "beer, cider e" is sold by retail; viz., to nighthouses, coffee shops and ke, mentioned in the 23 Vict. c. 27, s. 6. The definition of ace" in sect. 74 of 35 & 36 Vict. c. 94, does not extend the tion of this provision to 32 & 33 Vict. c. 27, s. 4. The 23 Vict. 23 Vict. c. 27, s. 6.
s. 6, is as follows:—"All houses, rooms, shops or buildings open for public refreshment, resort and entertainment at any between the hours of [ten, 24 & 25 Vict. c. 91, s. 8] of the t at night and five of the clock of the following morning, not g licensed for the sale of beer, cider, wine or spirits respec- y, shall be deemed refreshment houses within this act, and the nt owner, tenant or occupier thereof shall be required to take a licence under this act to keep a refreshment house;—and y person who shall keep any house, room, shop or building for purpose of selling therein any victual or refreshment to be con- ed on the premises where the same shall be sold (except beer, e, wine and spirits sold respectively under a proper licence in l behalf),—and every person who shall keep any house, room, p or building for the consumption therein by the public of any shment (except as aforesaid), although the same shall not be l therein, may, if he shall think fit, take out a licence under this to keep a refreshment house;—and in all proceedings and upon occasions whatever it shall be sufficient to describe by the term shment house any house, room, shop or building in which any h article as aforesaid (except as aforesaid) is sold to be consumed, is consumed as aforesaid, without further or otherwise desig- ing or describing the same."

The Licences referred to.] The licences referred to may be shortly scribed in the words, as near as may be, of the acts under which ir grant is provided:—

Sale of Beer.] For this it is a justices' certificate either to sell by tail beer and cider to be consumed *on* or *off* the licensed premises, r both on and off. The first act, 1 Will. 4, c. 64, ss. 1, 2, did not

35 & 36 Vict. c. 94.

mention whether the beer was to be consumed on or off th
The 4 & 5 Will. 4, c. 85, s. 1, authorized either mode, and
new duties and, with the 1 Will. 4, c. 64, many excise r
as to the grant of the licence.

Sale of Cider and Perry.] The 1 Will. 4, c. 64, s. 30, a
the grant of the cider and perry licence.

The holder of these licences for beer, cider and perry
sell wine or spirits (1 Will. 4, c. 64, s. 1; 4 & 5 Will. 4, c.
20): but they may now sell wine under a licence granted
Refreshment Houses Act (see 24 & 25 Vict. c. 91, s. 10).

Qualification for Houses.] The value qualification for the
for the sale of beer or cider to be consumed *on* or *off* the
will be according to 3 & 4 Vict. c. 61, s. 1, as amended by
Vict. c. 94, s. 46. As to proof of qualification, see sect. 47

For the Sale of Wine in Confectioners' Shops and Eatin
when licensed as Refreshment Houses.] This licence is g
under the Refreshment Houses Act, 23 Vict. c. 27, *i. e.*, to
retail foreign wine at a house licensed as a refreshment hou
a confectioner's shop, or a person keeping an eating house,—
cases to be consumed on the premises (ss. 7, 8).

23 Vict. c. 27, s. 7.

By sect. 7, "Every person who shall be licensed *to kee*
freshment house, and shall pursue therein the trade or bus
a *confectioner*, or shall keep open such house as an eating ho
the purpose of selling, to be consumed therein, animal food o
victuals wherewith wine or other fermented liquors are
drunk, shall be entitled (subject to the terms and conditions
act, and not being expressly disqualified thereby,) to take
licence to sell *foreign wine* by retail in such refreshment ho
be consumed on the premises where the same shall have bee
without producing or having any other licence or authority t
aforesaid;—and every confectioner and eating house keeper r
tively who shall have taken out such licence to retail wine und
act, shall not be subject or liable to any penalty or forfeiture
any other act or acts by reason or on account of his selling wi
retail, or having the same in his possession in his entered pre
anything in any other act or acts to the contrary notwithstan

Qualification of Houses.] The value qualification for these
is given in sect. 8.

26 & 27 Vict. c. 33, s. 1.

Sale of Bottled Beer by Holders of Strong Beer Licences.]
an additional licence granted under 26 & 27 Vict. c. 33, s
those who have taken out an excise licence to sell strong
casks and quart bottles, authorizing them "to sell beer in a
quantity and in any other manner," viz., in other than four
half gallon casks, or two dozen reputed quart bottles at one
"but *not* to be drunk or consumed on the premises where
Vide the description of it also in recital to 32 & 33 Vict. c. 27.

ification of Houses.] The 33 & 34 Vict. c. 29, s. 10, gives 35 & 36 Vict. c. 94.
ification, &c. of these premises, and see 32 & 33 Vict. c. 27, b-s. 4.

tional Retail Licence may be granted at Special Sessions for 37 & 38 Vict. c. 49, s. 31.
y.] An additional retail licence to sell beer for consumption premises may be granted *at any special sessions for licensing* s to the holder of a strong beer dealer's wholesale excise , in the same manner and subject to the same conditions in bject to which it might be granted at any general annual g meeting.

of Table Beer.] This is a licence to sell by retail table beer 24 & 25 Vict. c. 21, s. 3.
ensumed off the premises, and is granted under 24 & 25 Vict. s. 3, which provides, that "it shall be lawful for any person e out a licence for the sale in any house or shop of table beer, ice not exceeding the rate of one penny halfpenny the quart, t to be drunk or consumed on the premises where sold;" and ll not be necessary "to the obtaining of such licence that the ouse or shop shall be rated to the relief of the poor to any nt."

tificates by whom to be granted.] As to the whole of the above 32 & 33 Vict. c. 27, s. 5.
ibed licences the 32 & 33 Vict. c. 27, s. 5, enacts:—"Certifi- under this act shall be granted by the justices assembled at neral annual licensing meeting held in pursuance of an act of sion of the ninth year of the reign of King George the Fourth, er sixty-one, intituled 'An Act to regulate the granting of ses to keepers of inns, ale-houses, and victualling-houses in and'—or at some adjournment of such meeting held in pursu- of the said last-mentioned act." [*The proviso to this section repealed by* 33 & 34 *Vict.* c. 29, *s.* 4, *sub-s.* 5.]

ified Provisions of 9 *Geo.* 4, *c.* 61, *extended to these Licences.*]
ain provisions of the Alehouse Act, 9 Geo. 4, c. 61, have been nded to these licences by the following enactments:—

he 32 & 33 Vict. c. 27, s. 8, enacts:—"All the provisions of the Sect. 8.
act of the ninth year of the reign of King George the Fourth, the terms upon which, and the manner in which, and the per- by whom, grants of licences are to be made by the justices at said general annual licensing meeting, and as to appeal from any of any justice, shall, so far as may be, have effect with regard to nts of certificates under this act,—subject to this qualification, no application for a certificate under this act in respect of a nce to sell by retail *beer, cider, or wine not* to be consumed on the mises shall be refused, except upon one or more of the following unds; viz.:—

(1.) That the applicant has failed to produce satisfactory evidence of good character:

(2.) That the house or shop in respect of which a licence is

35 & 36 Vict. c. 94.

sought, or any adjacent house or shop owned
by the person applying for a licence, is of a
character, or frequented by thieves, prostitutes,
of bad character:

(3.) That the applicant having previously held a lice
sale of wine, spirits, beer, or cider, the same ha
feited for his misconduct, or that he has throu
duct been at any time previously adjudged d
from receiving any such licence, or from selling
said articles:

(4.) That the applicant, *or* the house in respect of
applies, is not duly qualified as by law is requir

Where an application for any such last-mentioned certifi
fused on the ground that the house in respect of which he
not duly qualified as by law is required, the justices shall
writing to the applicant the grounds of their decision." Th
are bound to state to the applicant upon which of the fou
they have refused the certificate (*R.* v. *Sykes*, 45 L. J., M

There shall be repealed so much of sect. 8 of the Wine
house Act, 1869, as incorporates or applies any repealed e
and no appeal shall be had to quarter sessions from any a
justice with respect to the grant of new certificates under
and Beerhouse Acts, 1869 and 1870.

33 & 34 Vict. c. 29, s. 4, sub-s. 5.

Further Application of 9 *Geo.* 4, *c.* 61, *to Licences.*] By
Vict. c. 29, s. 4 (*inter alia*), sub-s. 5:—"Subject to the pro
this section, all the provisions of the act of the ninth year o
the Fourth, chapter sixty-one, and acts amending the same
to the time for which justices' licences are to be in force,-
lating to the fees payable for such licences,—and relati
transfer, removal, and transmission of such licences,—and
of licences upon assignment, death, change of occupancy,
contingency,—and relating to copies of such licences,—and
to grants or transfers of such licences without the attenda
applicant who is hindered by sickness, infirmity, or other re
cause,—shall have effect with regard to certificates granted
granted under the principal act [32 & 33 Vict. c. 27] and th

Application for Licences.] The applications for licences
granted under the 32 & 33 Vict. c. 27, s. 7, as amended
36 Vict. c. 94, s. 40.

Grounds on which Wine and Beer Licences can be refus
32 & 33 Vict. c. 27, s. 8, for the grounds upon which beer, c
wine licences only can be refused by the licensing justices.

33 & 34 Vict. c. 29, s. 11.

Postponing Applications.] As to postponing applica
licences, 33 & 34 Vict. c. 29, s. 11, enacts:—"Where any
for the grant *or* renewal of a certificate has, through inadve
misadventure, failed to comply with any of the preliminary

of the principal act [32 & 33 Vict. c. 27] or this act, or any 35 & 36 Vict. c. 94.
orporated therewith, the justices may, if they shall so think upon such terms as they think proper, postpone the con-
ion of the application to an adjourned meeting,—and if at djourned meeting the justices shall be satisfied that such have been complied with, they may proceed to grant or ld such certificate as if the preliminary requirements of the al act [32 & 33 Vict. c. 27, s. 7, *as to notice of application*] en complied with."

Application for and Grant of Licences for the Sale of Wine by Grocers and other Shopkeepers; for the Sale of Spirits and Liqueurs by Licensed Dealers or Persons holding a Wholesale Spirit Dealer's Licence; and of Sweets.

ces not before granted by Justices.] These licences were not the 35 & 36 Vict. c. 94, grantable by justices. They are not ble under the Wine and Beerhouse Acts, 1869, 1870, and the ions of these acts are not applicable to them, unless so ed.

Value Qualification for Houses here named.] It will be seen ts. 45 and 46 of 35 & 36 Vict. c. 94, that none of the houses l in this division of the subject, whether now licensed or in e to be licensed, require the new or any annual value qualifi-

by Retail of Wine by Grocers and other Shopkeepers.] By the 23 Vict. c. 27, s. 3.
shment Houses Act, 23 Vict. c. 27, s. 3,—"Every person who keep a shop for the sale of any goods or commodities other foreign wine, *or* who shall have taken out a licence as a dealer ne (except persons expressly disqualified by this act), shall, *producing or having any other licence or authority* [*i.e.* a jus- certificate], be entitled to take out a licence under this act to retail, and in reputed quart or pint bottles only, in such shop, n wine *not* to be consumed on the premises where sold, any- in any former act to the contrary notwithstanding."

the 35 & 36 Vict. c. 94, s. 74, wine being defined with other Sect. 74.
as "intoxicating liquor," which cannot, according to the section, "be legally sold without a licence from the commis- rs of inland revenue," a "licence," as also defined by that n. must be obtained from the justices before the excise licence be granted.

by Retail of Spirits and Liqueurs by Licensed Dealers, or Sect. 68.
s holding a Wholesale Spirit Dealer's Licence.] The 35 & 36 c. 94, s. 68, enacts,—"No person shall sell by retail liqueurs *or* its under the authority of any retail licence which such person l have obtained as a wholesale spirit dealer from the commis- rs of inland revenue, except in premises occupied and used

35 & 36 Vict. c. 94.

exclusively for the sale therein of intoxicating liquor, premises have no communication with the premises of any way occupied by a person who is carrying on any c or business, unless such person shall have first obtaine licensing justices a licence authorizing such sale in pr exclusively so occupied and used."

Sect. 69.

Licences for Sale of Liqueurs, &c. by Retail not to be co the Premises.] "A licence for the sale of liqueurs *or* spirit not to be consumed on the premises may, where such required by this act [*i. e.*, under the preceding sectio granted in the same manner in all respects in which a selling wine *not* to be consumed on the premises may granted,—and an application for such a licence shall not except upon one or more of the grounds on which a cer respect of a licence to sell by retail beer, cider, or wine *not* sumed on the premises may be refused:—provided that in any such licence for liqueurs *or* spirits to be granted at an annual licensing meeting, or adjournment thereof, held be twentieth of August and the end of September in the year 1 notices only shall be required to be given, not exceeding se notice, as may be prescribed by the licensing justices."

The retail licence mentioned in sect. 68 obtained by a w spirit dealer is an excise retail spirit licence granted to *suc* (already licensed as such by the excise under the act 23 & c. 114, and thereby authorized to sell in any quantities at o under 24 & 25 Vict. c. 21, s. 2, which provides, that "any per licensed as a dealer in spirits may take out an additiona authorizing him to sell by retail foreign or British spirits quantity not less than one reputed quart bottle, or, as to liqueurs, in the bottles in which the same may have been *im not* to be drunk or consumed upon the premises," which will a licensed dealer to "send out or deliver any such spirits wit certificate [the permit] required by law in such cases, if the q does not exceed one gallon at a time, and such spirits are n to the stock of any dealer or retailer;" provided that noth this section is to repeal, alter or affect sect. 169 of 23 & 24 V 114, which authorizes a licensed spirit dealer to take out ditional licence to sell *foreign liqueurs* in bottles and to sen out as provided by the 24 & 25 Vict. c. 21, s. 2, as to *spiri* "dealer," as distinguished from a "retailer," is a perso allowed to sell a less quantity at one time than two gallons, be consumed at the place of sale. A *wholesale* dealer is the person, the word "wholesale" being now added to illustra word "dealer" so used in the revenue laws. It will be obs that the 24 & 25 Vict. c. 21, s. 2, includes liqueurs as w spirits; and, therefore, a wholesale spirit dealer who does not

every kind of spirit by retail, but only liqueurs, can take licence for that purpose under 23 & 24 Vict. c, 114, s. 169, . Grocers almost, if not quite exclusively, have, from the r affinity of their business to them, previous to the 35 & 36 . 94, taken out their retail spirit licence from the excise the act of 24 & 25 Vict. c. 21, s. 2, and their liqueur licence 11 & 12 Vict. c. 121, s. 9, and 23 & 24 Vict. c. 114, s. 169; fore the new act the law did not notice whether any other r business was carried on on the premises in connection with le of spirits or liqueurs or not; the object of the new act as it appears, to prevent the surreptitious sale of intoxi- liquors at grocers and other shops under the names of other s.

35 & 36 Vict. c. 94.

: *of Sweets.*] The excise licence for the sale of sweets *or* wines by retail *on* or *off* the premises is granted under the . 4, c. 81, and by the justices pursuant to the 35 & 36 Vict. s. 74, which provides that it shall include "a licence for the f sweets, which is hereby authorized to be granted in the manner as if sweets were wine."

: 33 & 34 Vict. c. 29, s. 3, defines "sweets" as including ets, made wines, mead and metheglin." The wholesale r's licence for sweets is taken out under 23 & 24 Vict. c. 113,

provisions, therefore, of the 32 & 33 Vict. c. 27, 33 & 34 c. 29 (including the incorporated provisions of the 9 Geo. 4, , and 35 & 36 Vict. c. 94, as to the notice of application for a licence for wine, will now apply to the retail licence for s; but no value qualification is required for the premises if are not already licensed for the sale of other liquors. By the so to 35 & 36 Vict. c, 94, s. 69, a justices' licence is not sary for the sale of sweets under existing excise licences. The of sweets *to be* licensed hereafter will also be included under a licence granted to refreshment-house keepers, who are con- ners, or eating-house keepers selling foreign wine (26 & 27 . c. 33, s. 18).

(V.) *What Justices to grant and confirm new Licences and Certificates in Boroughs.*

icensing Committee of Justices in Boroughs where there are Ten ices.] The 35 & 36 Vict. c. 94, s. 38, enacts,—"In boroughs which at the commencement of the time appointed for the tual appointment of a licensing committee in this section men- ed there are ten justices acting in and for such borough or vards, new licences shall be granted by a committee, who shall

Sect. 38.

35 & 36 Vict. c. 94. Sect. 38.

for the purpose of such new licences perform all the du
be subject to the obligations of licensing justices.

"In every such borough as aforesaid the justices actin
for such borough shall annually in the fortnight prece
commencement of the period during which the general
licensing meeting for such borough may be held appoi
among themselves for the purposes of this act a committe
less than three nor more than seven in number, but no
shall be appointed a member of such committee unless he i
fied to act under this act."

Where there are not Three qualified Justices.] Where fr
reason there are not for the time being three qualified l
justices to form the quota of a joint committee for such b
in pursuance of section thirty-eight of the principal act,
ficiency in number of such borough justices shall be supp
qualified county justices to be appointed by the county li
committee.

As to filling up Vacancies.] Any vacancies arising in suc
mittee (in this act referred to as the borough licensing com
from death, resignation, or other causes, may be from time
filled up by the justices by whom the committee is appointe

The quorum of a borough licensing committee shall b
members.

The members of the borough licensing committee retiring
end of the year may be re-appointed;—and if from any
members have not been appointed in any year to succeed t
tiring members, such retiring members may continue to act
borough licensing committee until their successors are appoin

As to Confirmation of Borough Licence.] The grant of
licence by a borough licensing committee shall not be valid
it is confirmed by the whole body of borough justices, who
if this act had not passed, have been authorized to grant lic
or by a majority of such body present at any meeting asse
for the purpose of confirming such licences.

As to the provisional grant and confirmation of licences t
premises, see 37 & 38 Vict. c. 49, s. 22.

Boroughs not having Ten Justices.] In boroughs in which
are not ten justices acting in and for such borough at such ti
aforesaid, new licences shall be granted by the qualified bor
justices, but the grant of a new licence by such justices shal
be valid unless it is confirmed by a joint committee appoint
respect of such borough in manner hereinafter mentioned:

Justices generally to grant Licences, and confirmed by joint
mittee of Six Justices, Three of the County and Three o
Borough.] A joint committee for any such borough as
aforesaid shall consist of three justices of the count

which such borough is situate and three justices of the borough, but no justice shall be appointed a member of such committee unless he is qualified to act under this act. The three county justices on a joint committee shall be appointed by the county licensing committee. The same county justices may be appointed members of more than one joint committee under this section. The borough justices on a joint committee shall be appointed by the justices of the borough for which they act, or by the majority of such justices assembled at any meeting held for that purpose. Any casual vacancy arising in the joint committee from death, resignation, or other cause, may from time to time be filled up by the justices by whom the person creating such vacancy was appointed. The quorum of the joint committee shall be five members. The senior magistrate on the joint committee present at any meeting shall be its chairman; and in the event of an equal division of the committee the chairman shall have a second vote:

35 & 36 Vict. c. 94. Sect. 38.

...nces Valid.] No objection shall be made to any licences ...ted or confirmed in pursuance of this section on the ground ...the justices or committee of justices who granted or confirmed ...same were not qualified to make such grant or confirmation.

...unty Justices not to act in Licensing where Borough Justices have ...rrent Jurisdiction.] From and after the passing of this act, justices of a county shall not for licensing purposes, save in so as respects the power of appointing members of a joint committee, have any jurisdiction in a borough in which the borough ...ices have for such purposes concurrent jurisdiction.

(VI.) *Six-day or Week-day Licences and Early-closing Licences.*

Provisions as to Insertion of Condition as to Closing of Premises ...re Intoxicating Liquors are consumed, on Sunday.] The 35 & 36 ...ct. c. 94, s. 49, enacts,—Where on the occasion of an application ...r a new licence *or* transfer *or* renewal of a licence which authorise the sale of any intoxicating liquor for consumption on the premises, the applicant, at the time of his application, applies to the licensing justices to insert in his licence a condition that he shall keep the premises in respect of which such licence is or is to be granted closed during the whole of Sunday, the justices shall insert the said condition in such licence.

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Holder of Licence to keep his Premises closed during whole of Sunday.] The holder of a licence in which such condition is inserted (in this act referred to as a six-day licence) shall keep his premises closed during the whole of Sunday,—and the provisions of this act

35 & 36 Vict. c. 94.

with respect to the closing of licensed premises during certain h on Sunday shall apply to the premises in respect of which a six licence is granted as if the whole of Sunday were mentione those provisions instead of certain hours only.

The holder of a six-day licence may obtain from the com sioners of inland revenue any licence granted by such c missioners, which he is entitled to obtain in pursuance of such day licence, upon payment of six-seventh parts of the duty w would otherwise be payable by him for a similar licence not lim to six days (see also 37 & 38 Vict. c. 49, s. 8, as to an early-clo licence); and if he sell any intoxicating liquor on Sunday he be deemed to be selling intoxicating liquor without a licence.

The notice which a licensed person is required to keep paint fixed on his premises shall, in the case of a licence under section, contain words indicating that such licence is for six only.

In calculating the amount [of duty] to be paid for a six licence any fraction of a penny shall be disregarded.

37 & 38 Vict. c. 49, s. 7.

Early-closing Licences.] Where, on the occasion of any app tion for a new licence, or the removal or renewal of a licence w authorizes the sale of any intoxicating liquor for consumptio the premises, the applicant applies to the licensing justice insert in his licence a condition that he shall close the premis respect of which such licence is or is to be granted one earlier at night than that at which such premises would othe have to be closed, the justices shall insert the said condition in licence.

The holder of a licence in which such condition is inserte this act referred to as an early-closing licence) shall clos premises at night one hour earlier than the ordinary hour at w such premises would be closed under the provisions of this act the provisions of this act and the principal act shall apply t premises as if such earlier hour were the hour at which premises are required to be closed.

The holder of an early-closing licence may obtain from the missioners of inland revenue any licence granted by such com sioners which he is entitled to obtain in pursuance of such e closing licence, upon payment of a sum representing six-sev of the duty which would otherwise be payable by him for a si licence not limited to such early closing as aforesaid. In c lating the six-sevenths fractions of a penny shall be disregard

The notice which a licensed person is required by section e of the principal act to keep painted or fixed on his pre shall, in the case of an early-closing licence, contain such w as the licensing justices may order for giving notice to the p

t. I.] an early-closing licence has been granted in respect of such 35 & 36 Vict. c. 94.
ises.

mission of Duty in case of Six-day and Early-closing Licence.] Sect. 8.
person who takes out a licence containing conditions rendering licence a six-day licence, as well as an early-closing licence, be entitled to a remission of two-sevenths of the duty.

(VII.) *Removal of Licences and Certificates from one House or District to another.*

ences may be removed from one part of a District to another.] 35 & 36 Vict. c. 94.
35 & 36 Vict. c. 94, s. 50 (which is a re-enactment of the ended 34 & 35 Vict. c. 88, s. 2), enacts,—"Licences may be *oved* from one part of a licensing district to another part of the me district,—or from one licensing district to another licensing *rict* within the same county,—in manner following:—

The application for an order sanctioning removal shall be made by the person desiring to be the holder of the licence when removed, and shall be made at a general annual licensing meeting, or any adjournment thereof, to the justices authorized to grant new licences in the licensing district in which the premises are situated to which the licence is to be removed.

Notice of the intended application shall be given in the same manner as notice is given of an application for the grant of a new licence.

A copy of the notice shall be personally served upon or sent by registered letter to the owner of the premises from which the licence is to be removed, and the holder of the licence, unless he be also the applicant.

The justices to whom the application is made shall not make an order sanctioning such removal, unless they are satisfied that no objection to such removal is made by the owner of the premises to which the licence is attached, or by the holder of the licence, or by any other person whom such justices shall determine to have a right to object to the removal.

Subject as aforesaid, such justices shall have the same power to make an order sanctioning such removal as they have to grant new licences; but no such order shall be valid unless confirmed by the confirming authority of the licensing district."

(VIII.) *Register of Licences and Certificates granted, &c.*

Register of Licences to be kept in Licensing District.] The 35 & 36 Vict. c. 94, s. 36, enacts,—"There shall be kept in every licensing 35 & 36 Vict. c. 94. Sect. 36.

35 & 36 Vict. c. 94. Sect. 36.

district by the clerk of the licensing justices of that d register, to be called the register of licences, in such form be prescribed by such justices, containing the particula licences granted in the district, the premises in respect c they were granted, the names of the owners of such premi the names of the holders for the time being of such licences. shall also be entered on the register all forfeitures of licen qualifications of premises, records of convictions, and other relating to the licences on the register.

Owner's Name to be stated.] "Every person applying fo licence, or the renewal of a licence, shall state the name owner of the premises in respect of which such licence is gr renewed, and such name shall be endorsed on the licence, person whose name is so stated shall, subject as hereinaft tioned, be deemed for the purposes of this act to be the o the premises.

Owner's Name may be corrected on Register by Justices.]—" of summary jurisdiction may, on the application of any pers proves to the court that he is entitled to be entered as owner premises in place of the person appearing on the register to owner, make an order substituting the name of the applican such order shall be obeyed by the clerk of the licensing ju and a corresponding correction may be directed to be made licence granted in respect of the premises of which such ap claims to be the owner.

Inspection of Register by Ratepayer, Owners of Licensed Pr Licensed Persons and Officers of Inland Revenue.] "Any rate any owner of premises to which a licence is attached, and any of a licence within a licensing district shall, upon payment o of one shilling,—and any officer of police, and any officer of revenue in such district, without payment,—shall be entitled reasonable time to inspect and take copies of or extracts fro register kept in pursuance of this section for such district; a clerk of the licensing justices and every other person who pr the inspection or taking copies of or extracts from the sa demands any unauthorized fee therefor, shall be liable to a pe not exceeding five pounds for each offence.

Fee to Clerk to Justices for Registration.] "The licensing ju may, if they think fit, cause the register kept in pursuance o section to be divided into parts and assign a part to any porti the licensing district; and there shall be paid by each lic person to the clerk in respect to such registration the sum or f one shilling for every licence granted or renewed."

37 & 38 Vict. c. 49, s. 29.

Definition of the term "Owner."] "Any person possessing an or interest in premises licensed for the sale of intoxicating liq whether as owner, lessee or mortgagee, prior or paramount to

immediate occupier, shall, on payment of a fee of one shilling clerk of the licensing justices, be entitled to be registered as for one of the owners of such premises: provided that when estate or interest is vested in two or more persons jointly, one of such persons shall be registered as representing such estate interest." 37 & 38 Vict. c. 49, s. 29.

(.) *Confirmation of Grant of new Licences and Certificates by Licensing Committee.*

provisions following, which provide for the confirmation of the of justices' *new* licences and certificates by a standing licensing ittee in counties, and a similar one in boroughs before such s can be in operation, have effected a very great change in r applicable to the subject; and it now follows that if the ng justices *refuse* to grant such licences there is *no* appeal, e confirming authority, both in counties and boroughs, cannot re. If the confirming authority refuse to confirm the grant of nce there is an end of the matter, for there is no appeal from ecision; and it will be seen from 37 & 38 Vict. c. 49, s. 27, here is no appeal with respect to the grant of new certificates the Wine and Beerhouses Acts, 1869 and 1870. There is however, the appeal against the refusal to *renew* or *transfer* a under sects. 4 and 14 of the Alehouse Act (9 Geo. 4., c. 61), by sects. 27, 28, 29 of that act.

nsing Committee of Justices in Counties.] The 35 & 36 Vict. s. 37, enacts:—"In counties a grant of a new licence shall not d unless it is confirmed by a standing committee of the county es, in this act called the county licensing committee. But a e to sell any intoxicating liquor for consumption only off the ises shall not require confirmation by any authority. 35 & 36 Vict. c. 94, s. 37.

be annually appointed.] "The justices in quarter sessions bled for every county shall annually appoint from among them- s for the purposes of this act a county licensing committee,—or may appoint more than one such committee, and assign to any committee such area of jurisdiction as they shall think expe- t.

orum.] "A county licensing committee shall consist of not less three nor more than twelve members.

The quorum of a county licensing committee shall be three bers.

acancies.] "Any vacancies arising in any such committee from h, resignation or other causes, may be from time to time filled by the justices in quarter sessions by whom the committee is inted.

35 & 36 Vict. c. 94.

Committee to act for a Year, and may be re-appointed.] "licensing committee shall be deemed to be a standing com the quarter sessions by whom they are appointed for the y ceeding their appointment,—and their jurisdiction and pro shall not be affected by the termination of the sessions at wh were appointed. The members of a committee retiring at of the year may be re-appointed;—and if from any cause r have not been appointed in any year to succeed the retirin bers, such retiring members may continue to act as the co until their successors are appointed.

Regulations to be made as to the transaction of Business.] justices in quarter sessions shall make such regulations with to the meetings of any such committee and the transaction ness thereat as may think fit.

Clerk of the Peace to be Clerk of the Committee.] "The cler peace of the county shall by himself or his deputy be the cler county licensing committee or committees, and shall perf such duties in relation to any such committee or committe is required by law to perform in relation to the justices in sessions assembled."

Opposing Confirmation of Grant of new Licence.] Sect. 43. person who appears before the licensing justices and oppos grant of a new licence, and no other person, may appear and the confirmation of such grant by the confirming author counties or boroughs,—and the confirming authority may awar costs as they shall deem just to the party who shall succeed proceedings before them. In a county the justices in q sessions assembled,—and in a borough the borough justices,— make rules as to the proceedings to be adopted for confirmati new licences and the costs to be incurred in any such proceed and the person by whom such costs are to be paid.

Joint Committee to make Rules under Sect. 43 of principal Where the confirming authority is a joint committee, that mittee shall make rules in pursuance of sect. 43 of the princip as to the proceedings to be adopted for the confirmation of licences, and as to the costs of such proceedings, and the person whom such costs are to be paid.

Provisional Grant and Confirmation of Licences to new Prem Any person interested in any premises about to be constructed course of construction for the purpose of being used as a house the sale of intoxicating liquors to be consumed on the premises apply to the licensing justices and to the confirming authority the provisional grant and confirmation of a licence in respe such premises; and the justices and confirming authority, if sa fied with the plans submitted to them of such house, and th

premises had been actually constructed in accordance with 35 & 36 Vict.
lans they would, on application, have granted and confirmed c. 94.
licence in respect thereof, may make such provisional grant
der of confirmation accordingly.

rovisional grant and order of confirmation shall not be of any
y until it has been declared to be final by an order of the
ng justices made after such notice has been given as may be
ed by the justices at a general annual licensing meeting or a
l sessions held for licensing purposes. Such declaration shall
de if the justices are satisfied that the house has been com-
l in accordance with such plans as aforesaid, and are also
ed that no objection can be made to the character of the
r of such provisional licence.

rovisional grant and confirmation of a licence shall be subject
same conditions as to the giving of notices and generally as
ocedure to which such grant and confirmation would be sub-
if they respectively were not provisional, with this exception,
where a notice is required to be put up on a door of a house
notice may be put up in a conspicuous position on any part
e premises.

is section shall, with the necessary variations, extend to the
isional removal to any premises of an existing licence under
. 50 of the principal act.

nfirmation in Boroughs.] The provisions of the 35 & 36 Vict.
, as to the confirmation of the grant of licences by borough
ices, as regards the constitution of the confirming authority, are
what different to that for counties, but in other respects they
the same, and are contained in sect. 38.

*nfirming Order of Removal of Licence from one House, &c., to
her.*] By the last paragraph of sect. 50, authorizing the
oval of licences from one part of a district to another, &c., it is
vided that "no such order shall be valid unless confirmed by
confirming authority of the licensing district."

(X.) *Renewal of Licences and Certificates by Licensing Justices.*

Definition of "Renewal" of a Licence.] "The renewal of a
ence" granted at a general annual licensing meeting by way of
newal. (Sect. 74.) It does not need confirmation by the county
borough committee.

No Notice of Application for Renewal necessary.] By 32 & 33
ct. c. 27, s. 7 (which is now incorporated into the other acts), it
provided (*inter alia*), that "where application is made to the
stices for the grant of a certificate under this act by way of
newal only, notice in pursuance of this section shall not be

35 & 36 Vict. c. 94.

requisite." By 35 & 36 Vict. c. 94, s. 36, the person applying renewal is to state the name of the owner of the premises.

Provisions as to Renewal of Licences.] 35 & 36 Vict. c. 94, enacts:—Where a licensed person applies for the renewal licence the following provisions shall have effect:—

Personal Attendance of Applicant.] (1.) He need not atte person at the general annual licensing meeting unl is required by the licensing justices so to attend.

But now the act of 1874, s. 26, after reciting the above pro (1) of sect. 42, enacts that "such requisition shall not be save for some special cause personal to the licensed person to such requisition is sent." And that "it shall not be necess serve copies of notices of any adjournment of a general a licensing meeting on holders of licences or applicants for li who are not required to attend at such adjourned annual g licensing meeting."

Notice to oppose the Renewal to be given.] (2.) The justices not entertain any objection to the renewal of such licen take any evidence with respect to the renewal thereof, written notice of an intention to oppose the renewal o licence has been served on such holder not less than days before the commencement of the general annual li ing meeting:—provided that the licensing justices may withstanding that no notice has been given, on an obj being made, adjourn the granting of any licence to a f day, and require the attendance of the holder of the li on such day, when the case will be heard and the obj considered as if the notice hereinbefore prescribed had given.

A notice of an intention to oppose the renewal of a licence under section forty-two of the principal act shall not be valid it states in general terms the grounds on which the renewal o licence is to be opposed.

Evidence to be upon Oath.] (3.) The justices shall not r any evidence with respect to the renewal of such li which is not given on oath.

Subject as aforesaid, licences shall be renewed and the p and discretions of justices relative to such renewal shall be cised as heretofore.

As to Renewal of Licences for Beer and Wine existing on 1st 1869.] As to renewal of licences for beer and wine existing May, 1869, the 32 & 33 Vict. c. 27, s. 19 (extended by 33 Vict. c. 29, s. 7), provides,—"Where, on the first of May, 1 licence under any of the said recited acts is in force [and has renewed from time to time, whether such licence continues held by the same person or has been or may be transferred t

erson or persons, 33 & 34 Vict. c. 29, s. 7] with respect to 35 & 36 Vict. c. 94.
se or shop for the sale by retail therein of beer, cider, or
be consumed on the premises, it shall not be lawful for the
to refuse an application for a certificate for the sale of beer,
r wine to be consumed on the premises in respect of such
r shop, except upon one or more of the grounds upon which
ication for a certificate under this act in respect of a licence
sale of beer, cider, or wine, not to be consumed on the pre-
may be refused in accordance with this act."

of Renewal of a Licence.] The 35 & 36 Vict. c. 94, s. 48,
, enacts,—"A renewal of a licence may be made by an en-
nt on the licence, or by the issue of a copy of the old licence,
he latter case there shall be endorsed on such copy all con-
made within the previous five years which are endorsed on
licence."

ley Licence.] See sect. 49 as to a six-day licence, and 37 &
c. 49, s. 7, as to early-closing licences.

on Renewal of Licences.] The fees payable to a justices' clerk
renewal of a licence for an alehouse is regulated by 9 Geo.
, s. 15, being 7*s.* 6*d.* and 1*s.* more in respect of the registra-
licences under 35 & 36 Vict. c. 94, s. 36; for a certificate
he Wine and Beerhouse Acts, 1869, 1870, 5*s.*, and 1*s.* more
h registration,—the 33 & 34 Vict. c. 29, s. 4, sub-s. 3, enact-
at "for every certificate granted by way of renewal under
icipal act [32 & 33 Vict. c. 27] or this act there shall be
e to the clerk of the justices the sum of four shillings for
tters to be done by such clerk, and one shilling for the con-
or officer for service of notices; and if any clerk of justices
d or receive any greater or further fee or payment in respect
such renewal, whether for himself or for any other officer or
, he shall, upon summary conviction, be liable to a penalty of
unds." As regards other licences granted under the 35 & 36
. 94,—*i. e.*, those for the sale of sweets, liqueurs, wine, and
, in shops, &c.,—there is no statutory provision in any of the
nd the amount of fees must be regulated in these cases by the
d fees in force in the licensing district.

Transfer of Licences and Certificates by Licensing Justices.

nition of the "Transfer" of a Licence.] "The transfer of a
" means, according to the definition given in sect. 74 of 35
Vict. c. 94, a transfer made in special sessions under the fourth
of the 9 Geo. 4, c. 61, given in this chapter, and like the
e under sect. 14 of the same act is really, and is so treated by
ecretary of state in the forms prescribed by him, as a new
a, or interim licence, expiring at the same time as the original
e.

35 & 36 Vict. c. 94.

It will be seen by 33 & 34 Vict. c. 29, s. 4, sub-s. 5, that visions of 9 Geo. 4, c. 61, relating to the matters in this sect applicable to it.

Appointment of Special Sessions for the Year for tran Licences.] The 9 Geo. 4, c. 61, s. 4, enacts,—"That the assembled . . . at the general annual licensing mee every . . . year, shall appoint not less than four no than eight special sessions, to be holden in the division o for which each such meeting shall be holden, in the ye ensuing such general annual licensing meeting, at periods as may be equally distant,—at which special sessions it lawful for the justices then and there assembled, in the case the manner and for the time hereinafter directed, to licen persons intending to keep inns theretofore kept by other being about to remove from such inns as they the said justice in the execution of the powers herein contained, and in the of their discretion, deem fit and proper persons, under the pro hereinafter enacted, to be licensed to sell exciseable liq retail, to be drunk or consumed on the premises."

Precept, &c., thereof to be given as for General Annual L Meeting.] Sect. 5 contains provisions as to giving notices transfer days fixed.

Notice of Application to transfer a Licence.] By 35 & 3 c. 94, s. 40, it is enacted (*inter alia*), that "Every person in . . . to apply for the transfer of a licence shall publis of such application as follows; that is to say,

(1.) [*As to new licences*, p. 1257.]

(2.) In the case of the transfer of a licence he shall, fourte prior to one of the special sessions appointed by the for granting transfers of such licences, serve a n his intention to transfer the same upon one of the o of the parish, township or place in which the pren respect of which his application is to be made are and on the superintendent of police of the district notice shall be signed by the applicant or by his aut agent, and shall set forth the name of the person t it is intended that such licence shall be transferred, t with the place of his residence, and his trade or during the six months preceding the time of servi notice."

Attendance of Applicant necessary.] The attendance of the cant is necessary in the case of the transfer of any lice provided by 9 Geo. 4, c. 61, s. 12, being the only enactment act which is applicable to a *transfer*.

Allowance or Refusal of Application and Adjournment. 33 & 34 Vict. c. 29, s. 4, sub-s. 4, provides,—"It shall be

n of the justices to whom an application for a transfer is ither to allow or refuse the application, or to adjourn the ation thereof."

35 & 36 Vict. c. 94.

s in cases of Death, Bankruptcy, Change of Occupancy, and ntingency.] The 9 Geo. 4, c. 61, s. 14, relates to the grant ces in case of death, bankruptcy, insolvency, or change of cy during the currency of a licence, and to cases where the r of licensed premises has omitted to apply for a licence, or nises have been pulled down or destroyed. That section, as statute (which needs to be carefully analyzed), is as fol- "That if any person duly licensed under this act shall *he expiration of such licence*) die,—or shall be by sickness or firmity rendered incapable of keeping an inn,—or shall bankrupt, or shall take the benefit of any act for the relief ent debtors; or if any person so licensed, or the heirs, s, administrators, or assigns of any person so licensed, ove from or yield up the possession of the house specified cence; or if the occupier of any such house, being about e same, shall have wilfully omitted or shall have neglected at the general annual licensing meeting, or at any adjourn- reof, for a licence to continue to sell exciseable liquors by be drunk or consumed in such house;—or if any house, t as an inn by any person duly licensed as aforesaid, shall bout to be pulled down or occupied under the provisions t for the improvement of the highways or for any other urpose, *or* shall be, by fire, tempest, or other unforeseen oidable calamity, rendered unfit for the reception of , and for the other legal purposes of an inn;—

to be granted to Heirs, &c. of Person dying, or Assignees pt, &c. or to the new Tenant.] "It shall be lawful for the sembled as aforesaid at a special session holden under the of this act for the division or place in which the house so ving been kept shall be situate in any one of the above- d cases, *and in such cases only*, to grant to the heirs, , or administrators of the person so dying, or to the such person becoming incapable of keeping an inn,—or signee or assignees of such bankrupt or insolvent,—or to tenant or occupier of any house having so become un- or to any person to whom such heirs, executors, adminis- r assigns, shall by sale or otherwise have *bonâ fide* con- otherwise made over his or their interest in the occupation ing of such house,—a licence to sell exciseable liquors to be drunk or consumed in such house or the premises belonging;—

grant to the person whose house shall as aforesaid have

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been *or* shall be about to be pulled down *or* occupied fo
provement of the highways *or* for any other public purpos
become unfit for the reception of travellers, *or* for the o
purposes of an inn, *and* who shall open and keep as an
other fit and convenient house, a licence to sell exciseab
by retail, to be drunk or consumed therein:

"Provided always, that every such licence shall co
force only from the day on which it shall be granted unti
day of April or the tenth day of October then next ensuir
case may be:

"Provided also, that every person intending to apply,
the above-mentioned cases, at any such special session, for
to sell exciseable liquors by retail, to be drunk or consu
house or premises thereunto belonging in which exciseabl
shall *not have been sold* by retail, to be drunk or consume
premises, *by virtue of a licence granted at the general annual meeting next before such special session*, shall on some one
within the six weeks next before such special session, at so
between the hours of ten in the forenoon and of four in t
noon, affix or cause to be affixed on the door of such house,
the door of the church or chapel of the parish or place in wh
house shall be situate, and where there shall be no church o
on some other public and conspicuous place within *such* p
place, such and the like notice as is hereinbefore directe
affixed by every person intending to apply at the general
licensing meeting for a licence to sell exciseable liquors b
to be drunk or consumed in a house *not theretofore kept as*
and shall in like manner serve copies of the said notice on
the overseers of the poor and on one of the constables o
peace officers of such parish or place."

It will be observed by its context that this last proviso is
plicable to a house licensed at the previous annual licensing m
and, therefore, in such cases the six weeks' notice under this
is not necessary; nor is the new enactment of 35 & 36 Vict
s. 40, sub-s. 2, applicable to cases where the former occup
yielded up possession, and neither he nor his representativ
give the notice under the last-named section, or concur
application to the special sessions by the new tenant. It
apparently, only to cases where the occupier has omitted to
for his renewal licence, or the house is pulled down, or de
by fire, &c., for in the other cases provided by this sect
application under it must be made before the expiration
licences. See "Analysis of section 14," *infra*, and cases
referred to.

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Analysis of Section 14 *of* 9 *Geo.* 4, *c.* 61.

following is offered as a careful analysis of the rather con-nactments of the 14th section, showing the contingencies e persons to receive the new licences, with other require-according to the decision:—

Contingencies.	*Persons to whom licences to be granted.*
th of the licensed person.	The heirs, &c. of the deceased, *or* the person to whom they have made over their interest. 18
apacity of licensed person, by ckness, &c. to keep an inn.	The assigns of persons incapacitated.
nkruptcy or insolvency of the censed person.	The assignees of the bankrupt.
censed person, *or* his heirs, &c. moving from or yielding up ossession. [See *Simpkin* v. *Justices of Birmingham*, L. R., Q. B. 482; 41 L. J., M. C. 102.]	The new tenant, *or* the person to whom the heirs, &c. have sold their interest.
ilful omission *or* neglect of icensed person about to quit, to apply for a renewal licence at the annual licensing meeting. [See *Reg.* v. *Justices of Middlesex*, 40 L. J., M. C. 184; 25 L. T., N. S. 41.]	The new tenant, *or* the applicant. [In this case, a six weeks' notice necessary. See second proviso, *ante*, p. 1286.]

The 3 & 4 Vict. c. 61, s. 8, provides that on the death of a person ned to sell beer, &c. the executors or administrators, or the widow or , may be authorized to sell for the remainder of term of licence. As refreshment-houses, the 23 Vict. c. 27, s. 12, provides: that on the h of a licensed person, the excise may, without the interference of ces, authorize his representative, or widow, or child, to continue the ness for which the licence was granted for the remainder of the term of, and the same on the removal of a licensed person;—but in the of a licence for the sale of foreign wine by retail to be consumed upon premises, it is not to be transferred unless the assignee has a refresh-nt-house licence or produces a certificate from a justice of the place the justice does not object to the transfer being made (see 25 Vict. 22, s. 15).

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Contingencies.	*Persons to whom licenc granted.*
6. House being, or being about to be, pulled down for any public purpose. 7. Or by fire, tempest, &c. rendered unfit for travellers and the purposes of an inn.	The person whose house shall open and keep as a other fit and convenie [In this case, a six wee necessary, as in Case 5.
8. Conviction of licensed person for certain offences (37 & 38 Vict. c. 49, s. 15).	The assigns of person con in Case 2.

Temporary Authority to sell, &c. until a Special Sessions Day.] In order to give greater facilities in the transfer of of inns, ale-houses and victualling-houses, the 5 & 6 Vi (which by the 33 & 34 Vict. c. 29, s. 4, sub-s. 5, and the defi the 9 Geo. 4, c. 61, in sect. 74 of 35 & 36 Vict. c. 94, is appli all licences and certificates, and not confined to inns), s. 1, —"That . . . . at any petty session of justices of th holden in and for any division of every county and riding,— any hundred of every county not being within such division in every liberty, city, town or place within which any inn, ale or victualling-house shall be situated, and for which the said j shall be acting,—at any time when no special session sl holden for any such division, hundred, liberty, city, town or it shall be lawful, in those cases where justices of the peace ass at a special session are empowered, by the act 9 Geo. 4, c. 4, 14, to transfer or grant licences, before the expiration ther sell exciseable liquors by retail in the same house or premi respect of which any person had been theretofore duly lic for the majority of the justices then present, upon application to them at any such petty sessions, by indorsement under hands and seals on any licence which shall have been granted suant to the provisions of the said act, at any general licensing ing, or at any adjournment thereof, to authorize (if they shall it proper so to do, after examining upon oath all necessary pa any person not disqualified by the said act to whom it sha proposed at the time of such application to transfer or gran such licence, to use, exercise and carry on the business of a lic victualler at the same house and on the same premises, and to sell such exciseable liquors as might theretofore have been fully sold and retailed therein;—and thereupon it shall be la for the officer of excise empowered to transfer licences by end ment on the excise licences required to be transferred to the like authority to the persons so authorized by the magistra

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;;—and the authority so granted shall continue and be in ntil the then next ensuing special session which shall be for the division, hundred, liberty, city, town or place within uch house and premises shall be situated, and no longer;— h special session the justices then and there assembled, upon tion made to them pursuant to the said act, touching any r or grant of licence to the party or parties to whom such ty shall have been so given at petty sessions as aforesaid, ear and dispose of such application according to the provi- the said act." [Then follows a proviso, that this enactment o empower any justices at petty sessions to give such autho- hin any of the divisions assigned or to be assigned to the ourts within the metropolitan police district, except in the h of Southwark; but that when the licensed premises are l within any of the said police court divisions, and in South- ne of the police magistrates sitting at such courts may grant uthority.]

o a Licence being Lost or Mislaid.] Provision is made by Vict. c. 44, s. 2, for a copy of a licence being indorsed where ginal is lost or mislaid, and that is amended in the manner hown by 35 & 36 Vict. c. 94, s. 41, viz.:—"That whenever it e proved to the satisfaction of any such magistrate or justices y session, upon any application made as aforesaid, that any granted pursuant to the said act 9 Geo. 4, c. 61, has been mislaid [*to be inserted here* 'or if the application is for the of a licence, has been wilfully withheld by the holder thereof,' 6 Vict. c. 94, s. 41], it shall and may be lawful for the said trate or justices to receive a copy of such licence, certified to rue copy under the hand of the clerk to the licensing justices om the said licence shall have been granted, and to make such ement thereon as he or they might make under the provisions s act upon the original licence;—and such indorsement upon py so certified shall be as valid and effectual as if the same een made upon the said licence."

for Indorsement.] By sect. 3, a fee of 2*s.* 6*d.*, and no more, be demanded and taken "for every such certified copy and such indorsement."

III.) *Hours for opening and closing Premises, and granting Exemptions.*

e 35 & 36 Vict. c. 94, having repealed the provisions of the ious acts of 9 Geo. 4, c. 61, 3 & 4 Vict. c. 61, 11 & 12 Vict. c. 49, t 19 Vict. c. 118, and 27 & 28 Vict. c. 64, and the Wine and house Acts, 1869 and 1870, as to the hours of opening and ng the different licensed premises (which were before very dis-

35 & 36 Vict. c. 94.

similar), provided almost uniform provisions in relation hours for *all* houses in which intoxicating liquors were sold which came into force throughout the country on the 11th 1872. The new provisions were contained in 35 & 36 Vi ss. 23, 24, generally; ss. 27, 28 as to refreshment-houses; a 29, powers to grant exemptions to trades and on special oc

The previous provisions were—

9 Geo. 4, c. 61 (in the Alehouse licence) as to the and afternoon divine service on Sundays, &c.

11 & 12 Vict. c. 49 (Alehouses and Beerhouses), 4, 5, as to the mornings of Sundays, &c.

3 & 4 Vict. c. 61 (Beerhouses), s. 15, as to morni nights generally of week-days.

18 & 19 Vict. c. 118 (Alehouses and Beerhouses), 4, as to afternoon hours of Sunday, &c.

27 & 28 Vict. c. 64 (Alehouses and Refreshment-ho to certain hours on Sunday, &c. [now repealed e to refreshment-houses where intoxicating liquors sold].

There was no limitation before 35 & 36 Vict. c. 94, as to h closing and opening alehouses on any other day than Sunda and the following mornings.

But sect. 24 of that act defined the hours of closing *all* ho Sundays, &c., in the metropolis and elsewhere; imposed p for opening the houses or selling liquors during the prohibited with the usual exceptions in favour of travellers, lodgers, and r stations; and also empowered the licensing justices for places l the four-mile radius from Charing Cross, &c. at the general licensing meeting, &c., after twenty-one days' public notice, t an order altering the closing hours so as to restrict or enla periods during which houses are to be open, with some excep

Now, however, the Act of 1874 repeals the whole of sect. the previous act, and gives three scales, according to which li houses are to be closed, viz., one for houses within the metrop district, as defined by the schedule, a second for the rem houses within the metropolitan police district, and for those in or populous places, as defined in sect. 32, and a third for all places (sect. 3).

In the metropolis the houses may now remain open till hal twelve instead of only till twelve, but there is no longer to b exemption or further extension of the time in the case of ho the neighbourhood of theatres (sect. 4). Houses to which the s scale applies are to close at eleven o'clock on week days, and under the third scale at ten.

The penalty for infringing the act as to the hours of cl remains the same, but the offence in question now includes al

35 & 36 Vict. c. 94.

toxicating liquors, *although purchased before the hours of* to be consumed on the premises during closed hours 1). The exceptions in favour of travellers, lodgers, and stations are repeated, the first being more fully explained 0).

s of closing Premises licensed for Sale of Intoxicating Liquors.]

mises in which intoxicating liquors are sold by retail shall d as follows; (that is to say,)

If situate within the metropolitan district,—

Saturday night from midnight until one o'clock in the fternoon on the following Sunday; and

Sunday night from eleven o'clock until five o'clock on the ollowing morning; and

all other days from half an hour after midnight until five o'clock on the same morning; and

If situate beyond the metropolitan district and in the metro- police district, or in a town or in a populous place as de- y this act,—

Saturday night from eleven o'clock until half an hour after noon on the following Sunday; and

Sunday night from ten o'clock until six o'clock on the fol- lowing morning; and

the nights of all other days from eleven o'clock until six o'clock on the following morning; and

If situate elsewhere than in the metropolitan district or the olitan police district or such town or populous place as id,—

Saturday night from ten o'clock until half an hour after noon on the following Sunday; and

Sunday night from ten o'clock until six o'clock on the fol- lowing morning; and

the nights of all other days from ten o'clock until six o'clock on the following morning.

h premises wherever situate shall, save as hereinafter men- , be closed on Sunday afternoon from three or half-past two ing as the hour of opening shall be one o'clock in the after- r half an hour after noon until six o'clock.

h premises wherever situate shall be closed on Christmas Day Good Friday and on the days preceding Christmas Day and Friday respectively, as if Christmas Day and Good Friday respectively Sunday, and the preceding days were respectively day, but this provision shall not alter the hours during which premises shall be closed on Sunday when Christmas Day im- ately precedes or succeeds Sunday.

e "Metropolitan District" is defined by the schedule to this

35 & 36 Vict. c. 94.

The following places are beyond the metropolitan district, the metropolitan police district,—

COUNTY OF MIDDLESEX.

Acton
Ashford
Bedford (East)
Brentford (New)
Chiswick
Cowley
Cranford
Drayton (West)
Ealing
Edgeware (inc. Whitchurch)
Edmonton
Enfield
Feltham
Finchley
Fryern Barnet
Greenford
Hadley Monken
Hamptonwick (Liberty)
Hampton (Town and Court)
Hanwell
Hanworth
Harefield
Harlington
Harmondsworth
Harrow
Hayes
Hendon
Heston
Hillingdon
Hornsey
Ickinham
Isleworth
Kingsbury
Laleham
Littleton
Northalt
Norwood (Preci
Perivale
Pinner
Ruislip
Shepperton
South Mimms
Staines
Stanmore (Gre Little)
Stanwell
Sunbury
Teddington
Tottenham
Twickenham
Twyford Abbe
Uxbridge (t and chapelry
Willesden

COUNTY OF SURREY.

Addington
Banstead
Barnes
Beddington (Wallington hamlet)
Carshalton
Cheam
Chessington
Clink Liberty
Coulsdon
Croydon
Cuddington
Epsom
Ewell (exclusive of part near Walton)
Farley
Kew
Kingston-on-Thames (Ham-with-Hatch hamlet, Hook hamlet)
Long Ditton
Maldon
Merton
Mitcham
Mordon
Mortlake
Moulsey (East)
Moulsey (West)
Penge
Petersham
Richmond
Roehampton
Sanderstead
Streatham
Sutton
Thames Ditto cluding ha Ember, ha Tooting)
Warlingham
Weston (and h Claygate)
Wimbledon
Woodmanstow
Worster Park

COUNTY OF ESSEX.

Barking (Town ward, Chadwell ward, Great Ilford ward, Ripple ward)
Chigwell
Chingford
Dagenham
East Ham
Little Ilford
Loughton
Low Leyton
Waltham Abbey (Holyfield hamlet, Sewardstone hamlet, Upshire hamlet)
Waltham (Town hamlet)
Walthamstow
Wanstead
West Ham (Street ward, tow ward, St ward)
Woodford

COUNTY OF HERTFORD.

Aldenham
Bushey
Cheshunt
Chipping Barnet
Elstree
Northaw
Ridge
Shenley
Theobald Stree Barnet)
Totteridge

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COUNTY OF KENT.

ham	Erith	North Cray
	Farnborough	Orpington
y	Foot's Cray	Plumstead
n	Hayes	St. Mary's Cray
urst	Keston	St. Paul's Cray
rd	Kidbrooke	Wickham (East)
	Lee	Wickham (West)
(including the t of Mottingham)	Lewisham	Woolwich

ollowing Table shows at a glance the hours during which ensed houses may be OPEN for the sale of intoxicating quors or refreshments, &c., according to their situation, sub- ct to the exceptions in cases of exemption, special order of stices, &c., mentioned in 37 & 38 Vict. c. 49, ss. 5, 6, 11:—

Situation of Premises.	Open Hours on SATURDAY, and Days* before Christmas-day and Good Friday.	Open Hours on SUNDAY, Christmas-day and Good Friday.	Open Hours on all OTHER DAYS.
thin the Metropolitan District.	From 5 A.M. to 12 midnight.	From 1 P.M. to 3 P.M., and from 6 P.M. to 11 P.M.	From 5 A.M. to 12·30 A.M. (*half an hour after midnight*).
yond the Metropolitan District, d within the Metropolitan Police District; or in a wn or populous place.	From 6 A.M. to 11 P.M.	From 12·30 P.M. to 2·30 P.M., and from 6 P.M. to 10 P.M.	From 6 A.M. to 11 P.M.
where than as ove.	From 6 A.M. to 10 P.M.	From 12·30 P.M. to 2·30 P.M., and from 6 P.M. to 10 P.M.	From 6 A.M. to 10 P.M.

Unless the day before Christmas-day is Sunday, in which case the open hours will s on other Sundays.

e following Table shows at a glance the hours during which licensed houses are to remain CLOSED in each of the prescribed districts:—

—	Saturday.	Sunday.	Monday.	All other Days.
Within the Metropolitan District.	12 midnight to	1 P.M.; 3 P.M. to 6 P.M.; 11 P.M. to	5 A.M. ...	12·30 A.M. to 5 A.M.
Beyond the Metropolitan District and within the Metropolitan Police District; or in a town or populous place.	11 P.M. to ...	12·30 P.M.; 2·30 P.M. to 6 P.M.; 10 P.M. to ...	6 A.M. ...	11 P.M. to 6 A.M.
Elsewhere than as above.	10 P.M. to ...	12·30 P.M.; 2·30 P.M. to 6 P.M.; 10 P.M. to ...	6 A.M. ...	10 P.M. to 6 A.M.

35 & 36 Vict. c. 94.

Any person, who, during the time at which premises for of intoxicating liquors are directed to be closed by or in pu of this act, sells or exposes for sale in such premises any cating liquor, or opens or keeps open such premises for the intoxicating liquors, or allowing intoxicating liquors, a purchased before the hours of closing, to be consumed on su mises, shall for the first offence be liable to a penalty not ex ten pounds, and for any subsequent offence to a penalty not ing twenty pounds.

37 & 38 Vict. c. 49, s. 10.

Saving as to bonâ fide Travellers and Lodgers.] Nothing act or in the principal act contained shall preclude a person to sell any intoxicating liquor to be consumed on the premis selling such liquor at any time to bonâ fide travellers or to lodging in his house: provided that no person holding a s licence shall sell any intoxicating liquor on Sunday to any whatever not lodging in his house.

Nothing in this act contained as to hours of closing shall pr the sale at any time, at a railway station, of intoxicating liq persons arriving at or departing from such station by railroa

If in the course of any proceedings which may be taken a any licensed person for infringing the provisions of this act, principal act, relating to closing, such person (in this secti ferred to as the defendant) fails to prove that the person to the intoxicating liquor was sold (in this section referred to purchaser) is a bonâ fide traveller, but the justices are sa that the defendant truly believed that the purchaser was a fide traveller, and further that the defendant took all reaso precautions to ascertain whether or not the purchaser was s traveller, the justices shall dismiss the case as against the defen and if they think that the purchaser falsely represented hims be a bonâ fide traveller, it shall be lawful for the justices to proceedings to be instituted against such purchaser under the section of the principal act.

A person for the purposes of this act and the principal act, not be deemed to be a bonâ fide traveller unless the place whe lodged during the preceding night is at least three miles di from the place where he demands to be supplied with liquor. distance to be calculated by the nearest public thoroughfare. the decisions under the section, see *ante*, pp. 528, 529.

Local authorities sometimes have by other enactments powe exempt houses from the hours as to closing in respect of cer trades and on special occasions, viz., by sects. 26 and 29 of 35 & Vict. c. 94, and sects. 5 and 6 of 37 & 38 Vict. c. 49, which ar follow:—

Exemption from closing Alehouses and Refreshment-houses by or of Local Authority in respect of Markets, Trades.] The local aut

35 & 36 Vict. c. 94.

f any licensing district, upon the production of such evidence ch authority may deem sufficient to show that it is necessary irable so to do for the accommodation of any considerable ber of persons attending any public market, or following any al trade or calling, may grant, if such authority think fit, to licensed victualler or licensed keeper of a refreshment-house, in rt of premises in the immediate neighbourhood of such market, the place where the persons follow such lawful trade or calling, rder exempting such persons from the provisions of this act, . sect. 24, now 37 & 38 Vict. c. 49, s. 3] with respect to the ng of his premises *on such days and during such time*, except een the hours of one and two of the clock in the morning as be specified in such order.

lder not liable to Penalty.] The holder of an order under this ion shall not be liable to any penalty for not closing his premises uch days and during such time as may be specified in such r;—but he shall not be exempt from any other penalty under or any other act, or otherwise.

tice to be affixed to Premises.] A notice in such form as may be scribed by the local authority, stating the days and hours during ich the premises are permitted to be open under such order of mption, shall be affixed and kept affixed in a conspicuous posi- outside the premises;—and if the holder of the order of exemp- make default in affixing or in keeping affixed such notice in nner aforesaid, during any part of the time for which his exemp- is granted, he shall be liable to pay a penalty not exceeding pounds.

Falsely affixing Notice.] Every person who keeps affixed to his mises any such notice when he does not hold an order under s section, shall be liable to a penalty not exceeding ten pounds.

Withdrawal of Order, or altering same.] Any such local autho- y as aforesaid may at any time, if it seem fit to them, withdraw order under this section, or alter the same by way of extension restriction, as such authority may deem necessary or expedient, however as not to render any person liable to any penalty for ything done under such order before the holder was informed of ch withdrawal or alteration.

Definition of "Local Authority" for granting Orders.] The follow- g persons and bodies of persons shall be deemed to be local thorities of licensing districts for the purposes of this act; that is say,

(1.) In the metropolitan police district, the commissioner of police for the metropolis, subject to the approbation of one of her Majesty's principal secretaries of state:

(2.) In the city of London and the liberties thereof, so far as they are not included in the metropolitan police district, the

35 & 36 Vict. c. 94.

commissioner of city police, subject to the appro the lord mayor of the said city:

(3.) In any other place, two justices of the peace in petty assembled."

37 & 38 Vict. c. 49, s. 5.

Exemptions as to Beer Houses.] The grant of an order o tion under the said twenty-sixth section may be made to an licensed to sell beer or cider by retail, to be consumed u premises, as well as to any licensed victualler or licensed h a refreshment house.

Sect. 6.

Power to vary on Sunday Afternoon hours of closing Pre sale of Intoxicating Liquors.] Notwithstanding anything i in any local act contained, the licensing justices may, if th fit, as respects premises in which intoxicating liquors a when situate in any place beyond the metropolitan district, purpose of accommodating the hours of closing on Sunda Friday and Christmas day to the hours of public worship i place, by order direct that such premises shall remain close one o'clock in the afternoon instead of half an hour after no in that case such premises shall be closed in the afternoo three until six o'clock, instead of from half-past two un o'clock.

Any order made by the licensing justices under this sectio not come into operation until the expiration of one month aft date thereof, and shall be advertised in such manner as the lic justices direct, and shall be in force until the same is revoke expense of any such advertisement may be defrayed in like m as the expenses of advertising the sittings of such justice defrayed.

Sect. 9.

Penalty for infringing Act as to Hours of Closing.] Any p who, during the time at which premises for the sale of intoxic liquors are directed to be closed by or in pursuance of this act, or exposes for sale in such premises any intoxicating liquor, or o or keeps open such premises for the sale of intoxicating liquo allows any intoxicating liquors although purchased before the h of closing to be consumed in such premises, shall for the first of be liable to a penalty not exceeding ten pounds, and for any s quent offence to a penalty not exceeding twenty pounds.

Sect. 30.

Person not to be liable for supplying Liquor to private F without Charge.] No person keeping a house licensed under the principal act shall be liable to any penalty for supplying i cating liquors, after the hours of closing, to private friends bo entertained by him at his own expense.

35 & 36 Vict. c. 94, s. 29.

Local Authority may grant Occasional Licences exempting Provisions relating to closing during certain Hours.] "If any lic victualler or keeper of a refreshment-house in which intoxic liquors are sold, applies to the local authority of a licensing di

icence exempting him from the provisions of this act relating ing of premises on any special occasion or occasions, it shall ful for such local authority, if in his discretion he thinks fit so to grant to the applicant an occasional licence exempting him he provisions of this act relating to closing of premises *during hours*, and *on the special occasion or occasions* to be specified licence;—and no licensed victualler or keeper of a refreshment- to whom an occasional licence has been granted under this shall be subject to any penalty for the contravention of the ions of this act relating to the closing of premises during the to which his occasional licence extends, but he shall not be pted by such occasional licence from any penalty to which he be subject by any other provision of this or any other act of ment." 35 & 36 Vict. c. 94.

rther Exemptions as to Beerhouses.] The grant of a licence r the twenty-ninth section of the principal act may be made to person licensed to sell beer or cyder by retail, to be consumed the premises, as well as to any licensed victualler or keeper of reshment-house in which intoxicating liquors are sold. 37 & 38 Vict. c. 49, s. 5.

to refreshment-houses, the 35 & 36 Vict. c. 94, contains the wing special enactments:—

toxicating Liquors not to be drunk at Refreshment-House (not so used) during the Hours when the House would be closed if it were ses.] Sect. 27. "No intoxicating liquor shall be consumed upon ises licensed as a refreshment-house but *not* for the sale of any xicating liquor during the hours during which the same premises ld, if they were the licensed premises of licensed victuallers, be sed by law for the sale and consumption of intoxicating liquor. If any person licensed to keep such refreshment-house allows intoxicating liquor to be consumed on the premises in contra- tion of this section, he shall be liable for the first offence to a alty not exceeding ten pounds, and for any subsequent offence penalty not exceeding twenty pounds."

Amendment of Law as to Refreshment-Houses.] Sect. 28. "Every reshment-house in respect of which a licence is granted for the therein by retail of foreign wine, upon which licence an abate- nt of duty has been allowed under section nine of the act of the sion of the twenty-fourth and twenty-fifth years of the reign of present majesty, chapter ninety-one, intituled 'An Act to end the Laws relating to the Inland Revenue,' shall be closed ery night at ten of the clock,—and where other licensed premises the same place are required by or in pursuance of this act to se at nine o'clock at night, at nine of the clock;—and if any son keeping such refreshment-house as is mentioned in this tion sells or exposes for sale in such refreshment-house, or opens keeps open any such refreshment-house for the sale of intoxica- ng liquors during the time that such house is directed to be closed

by this section, or during such time as aforesaid allow toxicating liquor to be consumed on such premises, he sh first offence be liable to a penalty not exceeding ten po for any subsequent offence to a penalty not exceedin pounds." See *Muir* v. *Keay*, 44 L. J., M. C. 143.

JURORS.

6 Geo. 4, c. 50. *The Acts.*] The acts as to jurors are,—"The County Ju 1825," 6 Geo. 4, c. 50, "The Juries Act, 1862," 25 & 26 Vic and "The Juries Act, 1870," 33 & 34 Vict. c. 77.

General Qualification of Persons to serve on Juries or Every man [a natural-born subject of the Queen, 33 & 34 Vi s. 8], between the ages of 21 and 60, residing in any county land, who shall have in his own name, or in trust for him the same county, £10 by the year above reprises in lands ments, whether of freehold, copyhold or customary tenu ancient demesne, or in rents issuing out of any such lands ments, or in such lands, tenements and rents, taken tog fee-simple, fee-tail, or for the life of himself or some other —or who shall have within the same county £20 above rep lands or tenements, held by lease for an absolute term of 2 or more, or for any term of years determinable on any life o —or who, being a householder, shall be rated or assessed poor rate, in Middlesex, on a value not less than £30, or other county on a value not less than £20;—or who shall oc house containing not less than 15 windows (6 Geo. 4, c. 50 or an alien domiciled in England for 10 years or upwards (3 Vict. c. 77, s. 8). Burgesses in boroughs with a separate q sessions are qualified to serve on grand juries in such bo (5 & 6 Will. 4, c. 76, s. 121), but are exempt from serving on at the sessions of the county, and so are members of the bo council (s. 122); but 16 & 17 Vict. c. 79, s. 6, repeals this e tion as respects boroughs of less than 12,000 inhabitants.

33 & 34 Vict. c. 77. *Qualification of Special Jurors.*] By 33 & 34 Vict. c. 77, "Every man whose name shall be in the jurors book for any c in England and Wales, or for the county of the city of Londo who shall be legally entitled to be called an esquire, or shall person of higher degree,—or shall be a banker or merchant, o shall occupy a private dwelling-house rated or assessed to the rate or to the inhabited house duty on a value of not less than in a town containing, according to the census next preceding preparation of the jury list, 20,000 inhabitants and upwards, rated or assessed to the poor rate or to the inhabited house dut a value of not less than £50 elsewhere,—or who shall occupy mises other than a farm rated or assessed as aforesaid on a valu not less than £100—or a farm rated or assessed as aforesaid

33 & 34 Vict. c. 77.

of not less than 300*l.*—shall be qualified and liable to serve on juries in every such county in England and Wales, and in respectively." By sect. 11, the overseers are to specify in of persons qualified to serve as jurors, which of such are, in their judgment, qualified as special jurors, and the of their qualification, rating, &c.

Persons exempt from serving on Juries.] By sect. 9, "The inhabitants of the city and liberty of Westminster shall, as heretofore, exempt from serving on any jury at the sessions of the peace the county of Middlesex. The persons described in the schedule hereto shall be severally exempt as therein specified from returned to serve and from serving upon any juries or whatsoever, and their names shall not be inserted in the of the persons qualified and liable to serve on the same, but, aforesaid, no man otherwise qualified to serve on such juries inquests shall be exempt from serving thereon, any enactment, prescription, charter, grant, or writ to the contrary notwithstanding." The schedule is as follows:—"Peers; members of parliament; judges; clergymen; Roman Catholic priests; ministers of any congregation of Protestant dissenters and of Jews whose place of meeting is duly registered, provided they follow no other occupation except that of a schoolmaster; serjeants, barristers at law, certificated conveyancers and special pleaders, actually practising; members of the Society of Doctors of Law advocates of the civil law, if actually practising; attornies, solicitors, and proctors, if actually practising and having taken their annual certificates, and their managing clerks, and notaries public in actual practice; officers of the courts of law and equity, and of the Admiralty and Ecclesiastical Courts, including within the Courts of Probate and Divorce, and the clerks of the peace or their deputies, if actually exercising the duties of their respective offices; coroners; gaolers and keepers of houses of correction, and all subordinate officers of the same, keepers in public lunatic asylums; members and licentiates of the Royal College of physicians in London, if actually practising as physicians; members of the Royal Colleges of Surgeons in London, Edinburgh and Dublin, if actually practising as surgeons; apothecaries certificated by the Court of Examiners of the Apothecaries Company, and registered medical practitioners and registered pharmaceutical chemists, if actually practising as apothecaries, medical practitioners, or pharmaceutical chemists respectively; officers of the navy, army, militia and yeomanry, while on full pay; the members of the Mersey Docks and Harbour Board; the master, wardens and brethren of the Corporation of Trinity House of Deptford Strond; pilots licensed by the Trinity House of Deptford Strond, Kingston-upon-Hull, or Newcastle-upon-Tyne, and all

33 & 34 Vict. c. 77.

masters of vessels in the buoy and light service employed of those corporations, and all pilots licensed under any ac liament or charter for the regulation of pilots; the l servants of her Majesty, her heirs and successors; office Post Office, Commissioners of Customs, and officers, clerks persons acting in the management or collection of the Commissioners of Inland Revenue, and officers or persons a by the Commissioners of Inland Revenue, or employed by under their authority or direction in any way relating to tl of Inland Revenue; sheriffs' officers; officers of the ri metropolitan police; magistrates of the metropolitan polic their clerks, ushers, doorkeepers and messengers; member council of the municipal corporation of any borough, an justice of the peace assigned to keep the peace therein, town clerk and treasurer for the time being of every such b so far as relates to any jury summoned to serve in the where such borough is situate; burgesses of every borough for which a separate court of quarter sessions shall be hol far as relates to any jury summoned for the trial of issues in any court of general or quarter sessions of the peace county wherein such borough is situate; justices of the p far as relates to any jury summoned to serve at any sessions peace for the jurisdiction of which he is a justice; officers Houses of Lords and Commons."

There are other exemptions allowed by other statutes. registrar of births and deaths (1 Vict. c. 22, s. 18); commis of income tax (5 & 6 Vict. c. 35, and 34 & 35 Vict. c. 103, and the Charity Commissioners, their secretary and inspector 24 Vict. c. 136, s. 24).

Disqualifications.] Aliens [not domiciled for ten years, 33 Vict. c. 77, s. 8]; persons attainted of treason or felony, o victed of any infamous crime (except pardoned), outlaws (33 Vict. c. 77, s. 10), or persons excommunicated (6 Geo. 4, c. 50.

6 Geo. 4, c. 50.

Revision of Lists of Jurors by Justices.] By 6 Geo. 4, c. 50. within the last seven days of September in every year justi every division [and in every borough, not having a separate of quarter sessions, 12 & 13 Vict. c. 18, s. 1: 6 Geo. 4, c. 50, s to hold a special petty sessions for reviewing and allowing th of men qualified and liable to serve on juries within the se parishes and townships; but a new name cannot be inserted, description, &c. corrected, unless notice given to persons affe either by the justices or otherwise. Clerk to justices to notice, before the 20th August preceding, to the churchwar and overseers of every parish, and to the overseers of e township within such division. Notice to the justices of special petty sessions will be given in the manner prov

Vict. c. 33, s. 7, *ante*, p. 1187. Churchwardens 6 Geo. 4, c. 50.
seen to attend special petty sessions and produce list,
er questions upon oath, &c. (s. 45), and no disquali-
or exemption can be pleaded to excuse attendance if not
before the revision of the list by the justices. The high
e has now no duties to perform under the Jury Act, the
s thereon being repealed by "The Juries Act, 1862," 25 & 26 Vict.
Vict. c. 107, s. 3;—and by sect. 4, the clerk of the peace is c. 107.
his precept to the parish officers by post direct; nor need
ice of the special petty sessions be sent to the high constable
By sect. 8, the justices may adjourn the special petty
s "to any day within seven days thereafter, for the pro-
of the jury list for any parish or township which, through
ault of any churchwarden or overseer, has been omitted to
nced at such special petty sessions,—and notice shall be sent
clerk to such justices to such churchwardens or overseers,
ing them to produce the said list at such adjournment."
s of Notices, Allowances, &c., Nos. 1, 2, 3, Oke's "*Formu-*
th ed. pp. 670, 671.]

ices to certify Jury Lists after Revision.] By 33 & 34 Vict. 33 & 34 Vict.
s. 14, "upon completing the revision of the jury lists, the c. 77.
s at petty sessions shall certify in writing that they have
ined such lists, and that the same are, to the best of their
ledge and belief, true and proper lists of the special and
on jurors;—and the decision of such justices as to the quali-
ns of persons marked as special jurors in the lists so revised
em shall, as respects those lists, be final."

tices' Clerk to return Lists to Clerk of Peace.] By 25 & 26 25 & 26 Vict.
c. 107, s. 9, "it shall be the duty of the clerk to the justices c. 107.
e peace in every petty sessional division in England and Wales
ke charge of the jury lists of each parish and township within
division, when and as soon as they shall have been allowed and
ed by the said justices, as by the principal act [6 Geo. 4, c. 50]
vided, and to forward the same by the next available post in a
istered letter or letters, with the words 'jury list' legibly
tten or printed on the outside thereof, addressed to the clerk of
peace for the county, riding, or division, at his office, together
a schedule of the parishes and townships for which jury lists
e been then allowed, which schedule shall be signed by one of
said justices—[Form, No. 4, p. 671, Oke's "*Formulist*," 6th
]; and the clerk to the justices shall be entitled to the fee of two
ings and sixpence, to be paid out of the county rate, for the
harge of the duties hereby imposed upon him" [in addition to
fees for the allowance, &c.].

POOR.

I. *Appointment of Overseers, &c.*
II. *Recovery of Union Contributions.*
III. *Appeals against Rates or Union Assessments.*

I. *Appointment of Overseers, &c.* 19

43 Eliz. c. 2, ss. 1, 8; 54 Geo. 3, c. 91.

When, for Parishes in Counties.] The general and wel blished usage is for two or more justices at a *special* sessions h each petty sessional division **20** [on the 25th March in every or within fourteen days thereafter, 54 Geo. 3, c. 91], **21** to a overseers of the poor for the year ensuing, which is done from of men usually returned by the inhabitants in vestry, in obe to the precept of two justices: as to which and the conver the justices see the enactments at pp. 1187, 1188. The justi not bound to choose from the vestry list, for the appointm vested by law solely in the justices, who may appoint any duly qualified person, *i. e.* "substantial householders," w the inhabitants have nominated any persons, or the sa other persons, for the office or not. **22** Non-residents ma their consent be appointed (59 Geo. 3, c. 12, s. 6). There to be two at least and not more than four appointed for parish, &c., exclusive of the churchwardens (43 Eliz. c. 2 see *Reg.* v. *Cousins*, 33 L. J. (N. S.) M. C. 87; 9 Law T., 685). But this is now qualified by 29 & 30 Vict. c. 113, which provides, that if it shall appear to the justices th overseers cannot be conveniently appointed from the inha householders in any parish, the justices may appoint one o only, and if it shall appear to them that there is no such house liable or fit to be appointed, they shall appoint some inha householder of an adjoining parish willing to serve to be such seer, either with or without an annual salary to be paid out poor rate of the parish, which last-mentioned appointmen

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19 Appointments of overseers are not liable to stamp duty, as no is payable. See tit. "*Admission and Appointment or Grant*" in the Act, 1870, 33 & 34 Vict. c. 97. An assistant overseer's appoi when at a salary or otherwise, is exempt by 4 & 5 Will. 4, c. 76,

20 The 59 Geo. 3, c. 12, recognizes these appointments as bein at "special sessions," although the earlier acts contain no mention special meetings. As to when parishes are divided for special purposes, see 22 & 23 Vict. c. 65, s. 2.

21 These words are directory only, and an appointment after th teen days is good (*R.* v. *Sparrow*, 2 Sess. Cas. 140; 2 Str. 1123; 34; *Reg.* v. *Justices of Staffordshire*, 19 L. J. (N. S.) M. C. 166), o other time (*R.* v. *Sneyd*, 2 Dowl. 1101).

22 See *Reg.* v. *Spurrell and Walker*, 35 L. J. (N. S.) M. C. 74 occupancy as a servant; and *Reg.* v. *Justices of Lancashire*, 29 L. J. M. C. 244; *S. C. Reg.* v. *Hoole*, 2 Law T., N. S. 472, as to who appointed by the justices.

until the usual time of the appointment of overseers, and renewed from year to year as long as the justices shall find ry; and by sect. 12, "in any parish the same person may ntly the offices of churchwarden and overseer." For tions from serving the office, see 4 Burn's Jus., 29th ed. p. 24 Recent acts have created other disqualifications and exemp- ns:—by the 12 & 13 Vict. c. 103, s. 6, no person is qualified ppointed, who at the time of the proposed appointment is d, or directly or indirectly concerned, in any contract for the of goods, &c. for the workhouse, or relief of the poor;—nor master of a workhouse or relieving officer (13 & 14 Vict. , s. 6); or an assistant overseer (29 & 30 Vict. c. 113, s. 10); ers in the customs (16 & 17 Vict. c. 107, s. 7); or medical tioners (21 & 22 Vict. c. 90, s. 35), be appointed. A duplicate appointment should be served on each of the persons ap- d. The office continues for a year only, whether others are nted at the expiration of the year or not (4 Burn's Jus. 29th ed.). If any overseer shall die, or remove from the parish, or ne insolvent, before the expiration of his office, on oath thereof , two justices may appoint another in his stead, to continue new overseers are appointed (17 Geo. 2, c. 38, s. 3). Forms ncept, Appointments, &c., Nos. 1—5, p. 672, Oke's "*Formulist*," d.]

43 Eliz. c. 2, ss. 1, 8; 54 Geo. 3, c. 91.

pointments in Cities, Towns, &c.] By the 43 Eliz. c. 2, s. 8, the or, bailiff, or other head officer of cities, towns or places corpo- being justices, might appoint overseers of the poor (and see v. *Preston*, 18 L. J. (N. S.) M. C. 10); but in 1849, the 12 & 13 c. 8, was passed, which by sect. 1 enacts, "that in every city, corporate or borough, the justices of the peace who have juris- ion therein, [whether they be justices of the city or borough, or e county in which the same is situate, 15 & 16 Vict. c. 38,] shall the exclusive right of appointing the overseers of the poor of several parishes, townships or other places separately main- ing their own poor, or of any parts thereof within the said cities, s corporate and boroughs respectively, in like manner and with same effect as the justices of any county now have in respect of overseers of the poor of any parish within such county, and they hereby required from time to time to make such appointments rdingly." If a parish lie in two or more counties,—or part hin the liberties of a city or town corporate, and part without,— n as well the justices of the peace of every county, as also the stices *now*] of such city or town corporate are to nominate the erseers (43 Eliz. c. 2, s. 9).[23] In boroughs which have no

[23] The practice as respects parishes or parts of parishes lying in roughs which have a separate court of quarter sessions appears to be,

43 Eliz. c. 2, ss. 1, 8; 54 Geo. 3, c. 91.

separate court of quarter sessions the county justices ha
current jurisdiction with the borough justices (5 & 6 Will.
s. 111).

Appeal against Appointment.] The appointment may be
against by the person appointed, or by any parishioner (
c. 2, s. 6; *R.* v. *Forrest*, 3 T. R. 38; and see *R.* v. *Justic*
Albans, 3 B. & C. 698, and 12 & 13 Vict. c. 45, s. 1, Vol. I
Note 5);—or it may be removed into the Queen's Bench by
(*R.* v. *Standard Hill*, 4 M. & S. 378);—and until the appoin
quashed, the acts of overseers are valid (*Penney* v. *Slade*,
N. C. 319). After appointing the overseers, the justices a
officio, and cannot alter their appointment (*R.* v. *Great*
2 East, 224).

20 Vict. c. 19.

For extra-parochial Places.] By 20 Vict. c. 19, s. 1, "
31st of December, 1857, every place *entered separately in t*
of the Registrar-General on the last Census, which now is or
to be extra-parochial [see *Mytton* v. *Overseers of Thornbury*,
(N. S.) M. C. 109; 2 Law T., N. S. 12], and wherein n
levied for the relief of the poor, shall, for all the purposes o
sessment to the poor rate, the relief of the poor, the count
or borough rate,—the burial of the dead,—the removal of n
—the registration of parliamentary and municipal voters,—
registration of births and deaths,—be deemed a parish for s
poses [from that date, and not before, the act not being re
tive, *Reg.* v. *Inhabitants of St. Sepulchre*, 28 L. J. (N. S.) M
33 Law T. 120; *Overseers of Staple Inn* v. *Holborn Union*,
(N. S.) M. C. 181; 8 Law T., N. S. 864],—and shall be de
by the name which is assigned to it in such report; and the
of the peace having jurisdiction over such place or over th
part thereof shall appoint overseers of the poor therein;—
respect to any *other* place being or reputed to be extra-p
and wherein no rate is levied for the relief of the poor, such
may appoint overseers of the poor therein, notwithstandi
thing contained in 7 & 8 Vict. c. 101."**24** By sect. 2, "i

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that the overseers should be nominated by the borough justices a
sessions appointed by them, including such of the county ju
choose to join in the appointment. Where the parish is pa
borough and part in the county, there should be two separate
ments; one by the borough justices (including such of the count
as choose to join in it) for the borough part of the parish, and
by the county justices alone for the part lying out of the borou
the justices should have notice of the special sessions in the man
vided by 7 & 8 Vict. c. 33, s. 7, *ante*, p. 1187.

24 The section referred to is the 22nd of the 7 & 8 Vict. c. 101,
it was enacted, that it is not lawful to appoint separate overseer
township or village or other place for which before the passing
separate overseers had not been lawfully appointed. The High
1864, 27 & 28 Vict. c. 101, s. 9, authorizes justices in petty se

al place it shall appear to the justices that two over- 20 Vict. c.
conveniently be appointed from the inhabitant house-
reof, or are not required for such places, such justices
nt one only;—and if it shall appear to them that there is
householder liable or fit to be appointed they shall appoint
householders of an adjoining parish willing to serve to be
ers, either with or without an annual salary, such salary,
be approved of by the poor law board, and to be paid out
-rate of such place; and such last-mentioned appoint-
ll endure until the usual time of the appointment of
, and may be renewed from year to year as long as the
hall find necessary." Sect. 7 contains an exception that
in the previous section "shall apply to any extra-parochial
respect whereof there shall be any agreement with any
to the liability of such place to contribute to the poor-rate
parish contained in any act of parliament." Sect. 3 is a
ovision for the Inns of Court and the Charter-house in
Sect. 4 provides for the annexation of extra-parochial
adjoining parishes by the justice of the county or the
of a borough at the quarter sessions, when application is
certain persons and consent is obtained in the manner
ed in the act. Sect. 5 provides, that the overseers of such
ay act as guardians for the place until there shall be rate-
qualified to elect. Sect. 6 extends all the powers, &c. of
s to overseers appointed under this act. Sect. 8 authorizes
Law Board, with the consent of a certain proportion of the
rs of any extra-parochial place contained in or adjoining a
under a local act, and with the consent of the guardians of
ict, to direct such place to be added to the district. [Form
intment, No. 6, Oke's "*Formulist*," 6th ed. p. 673.] By 31 & 32 Vi
Vict. c. 122, s. 27, "from the twenty-fifth day of December c. 122, s. 2
every place which was or is reputed to be extra-parochial,
entered by name in the report upon the census for the year
not, for which an overseer has not been then appointed, or
ch no overseer shall be then acting, or which has not been
nexed to and incorporated with an adjoining parish, shall
ivil parochial purposes be annexed to and incorporated with
t adjoining parish with which it has the longest common
ry, and in case there shall be two or more parishes with
it shall have boundaries of equal extent, then with that
which now contains the lowest amount of rateable value;—
ry accretion from the sea, whether natural or artificial, and
t of the seashore to the low water mark, and the bank of

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overseers for an extra-parochial place, with a view of constituting
hway parish.

31 & 32 Vict. c. 122, s. 27.

every river to the middle of the stream, which on the said of December [1868] shall not be included within the bou or annexed to and incorporated with any parish, shall for purposes be annexed to and incorporated with the parish such accretion, part, or bank adjoins in proportion to the the common boundary."

50 Geo. 3, c. 44.

Auditing Overseers' Accounts.] Justices' power to audit under the 50 Geo. 3, c. 44, ss. 1, 9, is taken away in p unions where a district auditor appointed under 7 & 8 Vi ss. 32, 33, 37, 38; but in other parishes they may s annually at a special sessions, to be held within fourteen the appointment of overseers. [Form of Allowance, No. Oke's "*Formulist*," 6th ed.]

II. *Recovery of Union Contributions.* **25**

2 & 3 Vict. c. 84.

Complaint against Overseers.] By 2 & 3 Vict. c. 84, every case in which any contribution, by overseers or oth of any parish, of monies required by the board of gua persons acting as guardians for such parish, or for which shall include such parish, for the performance of th shall be in arrear, it shall be lawful for any two just within the district wherein such parish shall be situate, 26 cation under the hand of the chairman or acting chairm board [*or* an officer of the guardians duly authorized by 5 & 6 Vict. c. 57, s. 17; see *Note* **368**, Vol. I. pp. 67 summon the said overseers or other officers [*or* any on who has been served with the order for contribution, 12 c. 103, s. 7] to show cause, at a special sessions to be sum the purpose, why such contribution has not been paid;- hearing the complaint preferred under the authority of s man or acting chairman, and on behalf of such board, if t at such sessions shall think fit, **27** by warrant under t

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25 *Cases not within* 11 & 12 *Vict. c.* 43—*How Special Sessio* —*Jurisdiction of Justices.*] These cases do not appear to be operation of the 11 & 12 Vict. c. 43 (*vide* Vol. I. pp. 127, special sessions would be summoned in the mode provided b Vict. c. 33, s. 7, *ante*, p. 1186. By 30 & 31 Vict. c. 106, s. 2 union extends into several distinct jurisdictions, every matter, or complaint by which the guardians thereof are affected, or in have any interest, shall, for the purpose of jurisdiction, be arise or exist equally throughout the union."

26 By 14 & 15 Vict. c. 105, s. 9, in cases where the trea union resides or has his place of business in a county, distr different from that in which the defaulting overseer resides either county, &c. shall have jurisdiction to hear and determi plaint. See 30 & 31 Vict. c. 106, s. 27, in *Note* **25**, *supra*.

27 The justices cannot, however, refuse to issue their war because they think an act does an injustice in a particular c court will direct it to issue (*Reg.* v. *Boteler*, 33 L. J. (N. S.

sais, to cause the amount of the contribution so in arrear, her with the costs occasioned by such arrear, to be levied and ered from the said overseers or other officers, or any of them, e manner as monies assessed for the relief of the poor may be l and recovered [*i. e.* by distress on their goods under 12 & 13 c. 14, tit. "*Rates*," Chap. II. *post*], and the amount of such r, together with the costs as aforesaid, when levied and ered, to be paid to the said board:—provided always, that no ess made under any such warrant of justices shall be replele."

2 & 3 Vict. c. 84.

Witnesses.] A summons may be issued to a witness for either r. See *Note* 371, Vol. I. p. 681.

Proofs.] The proofs required before the justices, when not adl by the defendant, should be as follows:

The order or authority to the officer of the guardians (if not the chairman) to prefer the application and complaint for nonpayment before justices (5 & 6 Vict. c. 57, s. 17). [Production of a copy of the minute of the order or authority, signed by the presiding chairman, sealed and countersigned by the clerk, sufficient proof of authority, and of the directions contained therein (7 & 8 Vict. c. 101, s. 69).]

The application and complaint, and the summons to the overseers, signed by *two* justices (2 & 3 Vict. c. 84, s. 1). [Production sufficient.]

Service of summons on overseer, or at residence (12 & 13 Vict. c. 14, s. 5), if no appearance.

Poor Law Commissioners' order under 4 & 5 Will. 4, c. 76, s. 26, uniting the several parishes into the union. [Production sufficient proof that it was duly made and is in force (7 & 8 Vict. c. 101, s. 71); and not necessary to prove sending, unless reasonable notice in writing be given to the guardians requiring such proof, and then only of the sending to the clerk to the guardians of the union (Id. s. 72, and see further 10 & 11 Vict. c. 109, s. 25). See *Newbould* v. *Coltman*, 20 L. J. (N. S.) M. C. 149.]

5. The meeting of the guardians at which the resolution or minute of order for contribution on the parish in arrear was made. And see 24 & 25 Vict. c. 55, ss. 9, 10, 11, as to contribution orders made after 25th March, 1862, which extends to all unions. [Production of a copy of the resolution or minute signed, &c. as in proof 1, sufficient.] 28

C., *Ex parte Guardians of Bridgend and Cowbridge Union*, 9 Law T., .S. 720).

28 As to orders for retrospective charges, see the cases of *Waddington* City of *London Union*, 28 L. J. (N. S.) M. C. 113; 32 Law T. 225; ee v. *City of London Union*, 29 L. J. (N. S.) M. C. 5; statute 22 & 23

2 & 3 Vict. c. 84.

6. The order to the overseers to pay the contribution treasurer, signed by the presiding chairman of the and two other guardians present, and countersigned clerk (Commissioners' Gen. Cons. Order of 24th Jul Arts. 82, 83). [Production sufficient.]

7. The appointment of the defaulting overseer. [The appointment by two justices having jurisdiction to de proof of notice thereof to overseer,—or, proof of his acted in that capacity (*R.* v. *Verelst*, 3 Camp. 342; *Ford*, 1 C. & M. 662).]

8. Service of a copy or duplicate of the contribution orde overseer summoned (12 & 13 Vict. c. 103, s. 7) per [By the order of the commissioners, dated the 7th 1865, it is the duty of the collector of the guardians to

9. The nonpayment of the amount claimed. [By the tr or other competent person.]

Forms.] Application, Summons, Distress Warrant, &c 8—11, pp. 674—676, Oke's "*Formulist*," 6th edit.

III. *Appeals against Rates or Union Assessments.*

25 & 26 Vict. c. 103.

"The Union Assessment Committee Act, 1862" (25 & c. 103), does not take away the right to appeal to justices in sessions (which is recognized by sect. 22), under 6 & 7 Will. but contains provisions for securing a uniform and correct va of parishes in unions by means of an assessment committee ap from among themselves by boards of guardians, which commit cause to be made and approved valuation lists of the rateable p in each parish, the "gross estimated rental" for the purposes lists being defined by sect. 15 to be "the rent at which th ditament might reasonably be expected to let from year to ye of all usual tenants' rates and taxes, and tithe commutatio charge, if any." The overseers, or person aggrieved, may o the valuation list by notice to the committee, who are to hol ings to hear the objections (sects. 18 & 19); and the oversee likewise a power to appeal to the quarter sessions against (sect. 32). By 31 & 32 Vict. c. 122, s. 29, guardians of unio enter into an agreement mutually to bear the costs of seve peals in different parishes involving the same common princ

6 & 7 Will. 4, c. 96.

Appointment of Special Sessions for Appeals.] By 6 & 7 c. 96, s. 6, it is enacted,—"that the justices acting in and fo *petty sessions* division, [which now includes a borough; see Vict. c. 18, s. 1, Vol. I. p. 62; and 13 & 14 Vict. c. 91, s. 9, Id. to jurisdiction of borough justices,] shall four times at least i

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Vict. c. 49, s. 6; *City of London Union* v. *Acocks*, 8 C. B., N. As to dissolved unions, see 33 Vict. c. 2, s. 1.

6 & 7 Will. 4 c. 96.

ld a special sessions for hearing appeals against the rates 29 of veral parishes within their respective divisions,—and shall public notice 30 of the time and place when and where such l sessions will be holden to be affixed to or near to the door of rish church of the said parishes twenty-eight days at the least the holding of the same;—

ournment.] And such special sessions shall and may be ad- d from time to time by the justices there present, as they may fit;—

ers of Special Sessions.] And at such special or adjourned ns the justices there present 31 shall *hear and determine all* ons to any such rate on the ground of *inequality, unfairness or* ectness in the *valuation* of any hereditaments included therein see sect. 7, p. 1311];—

peal from Decision.] Which decision shall be binding and usive on the parties, unless the person or persons impugning decision shall within fourteen days after the same shall have made cause notice to be given in writing of his, her or their tion of appealing against such decision, and of the matter or e of such appeal, to the person or persons in whose favour such ion shall have been made;—and within five days after giving notice shall enter into a recognizance 32 before some justice he peace, with sufficient securities, conditioned to try such appeal be then next general sessions or quarter sessions of the peace ch shall first happen [see now 12 & 13 Vict. c. 45, s. 1, Vol. I.

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9 *What Rates.*] The stat. 6 & 7 Will. 4, c. 96, applies to all rates le for parishes and districts and before the subject of appeal to quarter ions, i. e. the highway rate, the lighting and watching rate, and the itia rate, as well as to the poor rate. By the Highway Act, 1864, & 28 Vict. c. 101, s. 37, persons aggrieved by rates payable to a high- y board may appeal to the special sessions under 6 & 7 Will. 4, c. 96, 6, 7; and by the 32 & 33 Vict, c. 41, s. 13, an owner liable for rates to have the same right of appeal against the valuation lists and the r rates as if he were the occupier. These special sessions are usually pointed on the day of appointing overseers.

30 *Mode of giving Notice.*] By 13 & 14 Vict. c. 101, s. 7, it is the jus- es' clerk's duty to prepare and give this notice, and the fees for which a charge on the poor's rates. The course usually adopted is for the stices to issue a precept to the parish constables, with the notices ned by the clerk, requiring them to affix them to the church doors Forms, Nos. 12—15, pp. 677, 678, Oke's "*Formulist*," 6th ed.], the nstable of each parish making a statutory declaration of his having affixed them, and depositing the same with the clerk. The fees to the nstable may be ordered under 5 & 6 Vict. c. 109, s. 17, and 13 & 14 Vict. c. 20, s. 2. It is advisable to convene the justices in the manner provided by 7 & 8 Vict. c. 33, s. 7, *ante*, p. 1187.

31 *Justices disqualified.*] Justices who are rated inhabitants of the arish should not interfere. See 16 Geo. 2, c. 18, s. 3, and 27 & 28 Vict. 39, s. 6, and cases in Vol. I. pp. 35, 36.

32 Form, No. 21, Oke's "*Formulist*," 6th ed. p. 683; see *Reg.* v. *Jus- ces of St. Albans*, 8 Ad. & Ell. 932.

6 & 7 Will. 4, c. 96.

p. 252, *Note* 5, as to length of notice before the quarter sess
and to abide the order of and pay such costs as shall be award
the justices, at such quarter sessions, or an adjournment there
and such justices, upon hearing and finally determining such m
of appeal, shall and may, according to their discretion, award
costs to the party or parties appealing or appealed against as
shall think proper,—and their determination in or concernin
premises shall be conclusive and binding on all parties, to all in
and purposes whatsoever;—

Notice of Objection and Notice to Guardians also in some c
Provided always, that no such objection shall be inquired in
the said justices in special sessions unless notice of such objecti
writing, under the hand of the complainant, shall have been
seven days at *least* before the day appointed for such special
sions **33** to the collector, overseers, or other persons by whom
rate was made. **34** [By 27 & 28 Vict. c. 39, s. 1, before any a
can be heard by any special or quarter sessions against a poo
for a parish in any union to which the 25 & 26 Vict. c. 103 ap
the appellant must give twenty-one days' previous notice in wr
thereof and the grounds to the union assessment committee; a
person can so appeal against a rate made in conformity wit
valuation list approved by such committee unless he has giv
such committee notice of objection against the valuation lis
proved, and failed to obtain relief from them. The committee
with consent of guardians, be co-respondents (s. 2), and see s
as to costs of committee];—

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33 *What Sessions.*] The appeal must be to the next practicabl
sions (*Reg.* v. *Justices of Lancashire*, 19 L. J. (N. S.) M. C. 199; *R*
Hammond, 4 N. S. C. 316; *Reg.* v. *Trafford*, 15 Q. B. 200), after the
lication of the rate, and not the demand (*R.* v. *Micklefield*, 1 Bott,
R. v. *Atkins*, 4 T. R. 12; *R.* v. *Coode*, 1 Bott, 276).

34 *Notice of Appeal.*] It is said that it is not necessary to give n
as required by 41 Geo. 3, c. 23, s. 6, to those parties also who m
stated in the grounds to be underrated or omitted to be rated (Lu
on Par. Assessm. 2nd ed. p. 96); but, of course, if it be desired to
with their assessments under that act, they should have notice. W
the appeal is made to the union assessment committee under the 25
Vict. c. 103, against the valuation list, notice is required to be giv
such other persons (sect. 18). The words "seven days *at least*" si
clear days, that is, both the day of giving the notice and that
expiration must be included in the computation, or rather seven
must intervene between both of such days. See *Reg.* v. *Justices of S*
shire, 8 A. & E. 179, and *Reg.* v. *Justices of Middlesex*, 2 N. S. C
Service on one of the overseers or persons by whom the rate is m
sufficient (*Reg.* v. *Justices of Devon*, 3 New Sess. Cas. 96), or upon
out of four (*Reg.* v. *Weedon Beck*, 17 J. P. 392. *Vide* Form of N
No. 16, Oke's "*Formulist*," 6th ed. p. 678). If the proper notices
not been given, or not given in time, the justices in special sessions
the quarter sessions, have no jurisdiction to hear the appeal (*Reg.* v.
tices of Cambridgeshire, 19 L. J. (N. S.) M. C. 130; *R.* v. *Brooks*, 9 B.
915); but the party aggrieved has an option as to whether he will
to the quarter sessions or special sessions.

inquire into Liability.] Provided also, "that the said jus- special session shall not be authorized to inquire into the of any hereditaments to be rated, but only into the true hereof, and into the fairness of the amount at which the same ave been rated." 6 & 7 Will. 4, c. 96.

rs of Special Sessions.] By 6 & 7 Will. 4, c. 96, s. 7,—"the present at any such special or adjourned session shall, for resaid purpose, have all the powers of amending or quashing ch rate so objected to, of any parish or other district within division, and likewise of awarding costs to be paid by or to the parties, and of recovering such costs, which any court of r sessions of the peace has upon appeals from any such rate, as herein excepted:—35 provided always, that no order of id justices shall be removed by *certiorari* or otherwise into her Majesty's courts of record at Westminster:—provided that nothing in this act contained shall be construed to de- any person or persons of the right to appeal against any rate y court of general or quarter sessions:—provided also, that no of the said justices in special sessions shall be of any force ing an appeal touching the same subject-matter to the court neral or quarter sessions of the peace having jurisdiction to nch appeal, or in opposition to the order of any such court such appeal."

ocedure.] See *supra*, as to "Notice of Objection." It is ntial that a set of rules should be made by the justices of the sion regulating the procedure [Form, Oke's "*Formulist*," 6th pp. 678, 679], in accordance with the received practice of rter sessions, where the appeal is on the ground, as under the Will. 4, c. 96, s. 6, of overrating, or that another is under- d. The order of procedure to be observed at the special ses- s should be as follows:—

1. The notice of the grounds of appeal to be put in; proof to be given or an admission of its due service, and to be read:
2. Appellant to open case:
3. Respondents to put in the rate; and by 25 & 26 Vict. c. 103, s. 23, the valuation list approved by the union assessment committee:

Awarding Costs.] The powers of the quarter sessions in respect of ending or quashing rates are conferred by the statutes 43 Eliz. c. 2, 6; 17 Geo. 2, c. 38, s. 6; 41 Geo. 3, c. 23, ss. 1, 3, 5, 6, 7, 8. The costs the parties, if ordered, are not recoverable under 11 & 12 Vict. c. 43, 27, Vol. I. pp. 261, 262, by virtue of the 12 & 13 Vict. c. 45, s. 5, or der 12 & 13 Vict. c. 45, s. 18; and the only remedy is by indictment r disobedience of the order of special sessions. (See *Reg.* v. *Delafosse*, J. P. 353; *Reg.* v. *Justices of Kingston-upon-Thames*, 22 J. P. 36.) In e latter case it was held, that the provisions of 41 Geo. 3, c. 23, s. 1, as allowance to be made on a quashed rate which has been paid, applied so to cases where the quashing was by the special sessions.

6 & 7 Will. 4, c. 96.

4. If the respondents do not attend or refuse to produce the proof of notice to produce it to be given, and a copy tracts from rate received:
5. Evidence in support of the appellant's case to be produc
6. Respondents to state their case and produce their eviden
7. Appellant to rely upon the whole case:
8. Judgment of quashing, confirming or amending rate w without costs. [*Vide* Form of Decision, No. 19, "*Formulist*," 6th edit. p. 682.]

When the justices order the rate to be amended, the amendi should be made by the clerk of special sessions, and a memora written opposite the alterations, as:—"*Amended pursuant to of justices in special sessions on appeal made this* —— *day of* —— *J. B., clerk of special sessions*;" and by 25 & 26 Vict. c. 103, the union assessment committee are to alter the valuation the parish in conformity with the decision made by the s sessions.

The rates may be levied notwithstanding notice of appea been given (41 Geo. 3, c. 23, s. 2).

Witnesses.] Persons may be summoned to give evidence on b of either party. See *Note* **371**, Vol. I. p. 681. [Form No. 17, "*Formulist*," 6th edit. p. 679.]

Appeal from Decision.] See paragraph, *ante*, p. 1309, "*A from Decision.*"

REFRESHMENT HOUSES AND WINE LICENCES. Se "*Intoxicating Liquors.*"

SPECIAL CONSTABLES. See "*Constables* (*Special*)."

THEATRES.

6 & 7 Vict. c. 68.

Licence.] Justices in counties, boroughs, &c. beyond the of the Lord Chamberlain [see s. 3], within twenty-one days written and signed application by person intended to be lice countersigned by at least two justices acting for the division delivered to the justices' clerk, to hold a special sessions for g ing licences to houses [or other places of public resort, s. 2] not booths used by strolling players and taken about by them place to place, &c. (see cases, *Note* **446**, Vol. I. p. 766), fo public performance of stage plays [defined by s. 23, p. 766] which special sessions seven days' notice is to be given by the to each justice acting within the division, district or place (6 & 7 c. 68, s. 5). Licence under hands and seals of four or more c justices assembled in open court and to be publicly read b clerk (Id.). During "any lawful fair, feast or customary me

e like kind," justices may allow to be performed in any booth ow any theatrical representation without licence (see proviso 23). 6 & 7 Vict. c. 68.

e *licensed.*] The actual and responsible manager (s. 7). See . as to consent of chancellors of universities of Oxford and ridge being necessary within those precincts, or within four- miles thereof.

les for Order, &c.] Rules for insuring order and decency, and ating the time during which the theatre shall open, to be made ne special licensing meeting or adjournment; and it is sub- d that the justices may annex a reasonable penalty for the ngement of any rule, although it cannot be recovered as a ty under the act, but by means of the recognizance hereafter ioned to be entered into for observing the rules. 36 The ces may at another special sessions rescind or alter such rules; the secretary of state may rescind or alter any such rules and e others. In case a riot or breach of the said rules in any such tre shall be proved on oath before any two justices, they may r the same to be closed for such time as they shall deem fit;— while such order is in force, the theatre to be deemed an un- sed house (s. 9). Manager to be bound [by recognizance] with sureties for due observance of rules and securing penalties; ager in not exceeding £500, and sureties each not exceeding 0 (s. 7). Such recognizance can only be estreated by proceedings uarter sessions.

ppeal.] Against order of justices (s. 20, Vol. I. *Note* 447, 67), and see 12 & 13 Vict. c. 45, s. 1, Vol. I. p. 252, *Note* 5, as ngth of notice before the quarter sessions.

'ees.] Not exceeding 5*s.* for each calendar month theatre open, e paid to the clerk and fixed by justices (s. 6).

'orms.] Application by Manager, Notice to Justices, Licence l Rules, Recognizance and Notice, Order rescinding Rules, or ing them, Order to close Theatre in case of Riot, and Justices' mission for Theatrical Booth in Fair, pp. 683, 686, Oke's "*For- list*," 6th edit.

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36 In case the rules made should relate to the consumption of liquors the theatre it should be mentioned, that the 5 & 6 Will. 4, c. 39, s. 7, ats,—"it shall be lawful for the commissioners and officers of excise, d they are hereby authorized and empowered, to grant retail licences to y person to sell beer, spirits and wine in any theatre established under yal patent, or in any theatre or other place of public entertainment sed by the lord chamberlain or by justices of the peace, without the ication by the person applying for such licence or licences of any cer- ate or authority for such person to keep a common inn, alehouse or ualling house, anything in any act or acts to the contrary notwith- ding." Some justices refuse to grant the theatre licence, unless the nee endorses an engagement not to apply for the liquor licence. If his is done, a copy of such endorsement should be sent to the excise.

CHAPTER II.

MATTERS TO BE DONE IN PETTY SESSIONS, OR BY JUSTICE.[1]

Preliminary observations.

In this Chapter we have stated where the provision statute 11 & 12 Vict. c. 43 (which consolidates the pr Summary Convictions and Orders, Vol. I. pp. 127—1 to the time of preferring the complaint,—the place i the justices should act,—the process to be issued which are not convictions,—the costs of the procee can be made available in the particular case. In tho where no such allusion is made, its enactments are no cable, and the special provisions of the particular act followed. Unless those special provisions apply, the power to issue a warrant in the first instance (or to b warrant, the 24 Geo. 2, c. 55, which was thought to plicable being now expressly repealed by 30 & 31 Vict neither can a justice of two or more adjoining counti in cases to which the 35th section, Vol. I. pp. 129, 13 not apply, act in one of them for the other (see pp. 17, 18); nor can they enforce costs against either parties; nor enforce the attendance of witnesses. I also be observed that either of the parties to the proce under this Chapter is competent and compellable t evidence for the other since the Evidence Act, 14 & 1 c. 99 (see Vol. I. pp. 77—81).

ADMIRALTY.

27 & 28 Vict. c. 57.

Acquisition of Lands.] By "The Admiralty Lands and Act, 1864" [2] (27 & 28 Vict. c. 57, ss. 3, 4), the Admiralty m

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1 *Vide* Introduction in Vol. I. p. 61, what is a Petty Session. course, must be understood that the summary convictions and or Vol. I. and the indictable offences in Parts I. and II. of this Volu be heard likewise in petty sessions, or by one justice, as the ca require, in addition to the matters here treated of.

2 By 28 & 29 Vict. c. 124, s. 1, the provisions of this act are to " in relation to all lands for the time being vested in or purchased commissioners of the Admiralty."

nd take lands (by agreement) requisite for the naval service, 27 & 28 Vict.
my force or department under control of the Admiralty, and c. 57.
t purpose "The Lands Clauses Act, 1845," is incorporated,
: to certain provisions.

al Act.] The act contains a variety of provisions applying
other of the provisions of the Lands and Railways Clauses
845, where under special acts the Admiralty may take lands.

very of Possession of Land from Tenants.] By sect. 12, where
se or agreement of or concerning lands purchased or taken
Admiralty is determined by expiration, notice or forfeiture
t for nonpayment of rent), the following provisions are to
fect:—

Possession of such lands may be recovered by the Admiralty under the act 1 & 2 Vict. c. 74 (*post*, tit. "*Landlord and Tenant*"), as in cases therein provided for, although the term or interest of the tenant may have exceeded seven years, and the rent may have exceeded the rate of £20 a year, and a fine may have been reserved or made payable:

The notice of intention to apply to justices to recover possession under that act, may require possession to be given up on or before the expiration of seven clear days from the service of the notice, and the form of notice may be varied accordingly:

The justices by that act authorized to issue a warrant for giving possession may by such warrant authorize entry and delivery of possession either forthwith or on or before such day as the justices think fit:

Such possession may (at the option of the Admiralty) be recovered with rent or mesne profits, or both, under the County Courts Act (19 & 20 Vict. c. 108) as in cases provided for in section 50 of that act, and the provisions auxiliary thereto, although the value of the premises and the rent payable in respect thereof may have exceeded £50 by the year; and it shall not be necessary to prove the yearly value and rent as thereby required.

AFFIDAVITS.

ths upon affidavits may be taken by justices in certain cases,
hich and the Statutory Declaration Act, 5 & 6 Will. 4, c. 62, see
"*Oaths*," *post*.

AGRICULTURAL GANGS.

ances to Gangmasters—Appeal against Refusal.] By "The 30 & 31 Vict.
icultural Gangs Act, 1867" (30 & 31 Vict. c. 130), after reciting c. 130.
"in certain counties in England certain persons known as
gmasters hire children, young persons and women with a view to

30 & 31 Vict. c. 130.

contracting with farmers and others for the execution on f of various kinds of agricultural work:" and that "it is ex make regulations with respect to the employment of childr persons and women by gangmasters," enacts (*inter alia*) l "licences to gangmasters shall be granted by two or mo in divisional petty sessions, on due proof to the satisfacti justices that the applicant for a licence is of good charac fit person to be entrusted with the management of an ag gang. 3 The justices shall annex to their licence a limiting, in such manner as they think expedient, the within which the children employed by such gangmaster allowed to travel on foot to their work. . . [*Vide Offence* p. 292, for violating such condition.] Any person aggriev refusal of the justices to grant him a licence to act as ga may appeal to the next practicable court of general or sessions;—and it shall be lawful for such court, if they see grant a licence to the applicant, which shall be of the same as if it had been granted by the justices in petty sessions." of Licence, Oke's "*Formulist*," 6th ed. p. 688.]

Renewal of Licences.] Sect. 8. "Licences under this act in force for six months only, and may be renewed on similar that on which an original licence is granted." [*Vide Note* 14 p. 293, as to endorsement on licence on gangmaster being co and withholding licence on his second or subsequent convi he is disqualified on a fourth conviction.]

Fees in respect of Licences.] Sect. 9. "There shall be cha respect of each grant or renewal of licence a fee of one shi and such fee shall be accounted for and applied in manner in the fees ordinarily received by the authority granting the are applicable."

ALEHOUSES. See "*Intoxicating Liquors.*"

ALIENS.

I. *Registration of Aliens.*
II. *The Naturalization Acts*, 1870.

I. *Registration of Aliens.*

6 Will. 4, c. 11.

The act 6 Will. 4, c. 11, "for the registration of aliens," r 7 Geo. 4, c. 31, and contains the following provisions:—Sect. 2, ters of vessels arriving from foreign parts are to declare what are on board or have landed from their vessels, under penalti

3 See *Note* 13, *ante*, p. 292, for definitions of "Gangmaster "Agricultural Gang," &c. By sect. 6, no licence is to be granted person who is licensed to sell beer, spirits, or any other excisable

: to extend to foreign mariners navigating the vessel; sect. 3, 1 arrival from abroad to declare his name, description, &c., oduce his passport; sect. 4, the officers of customs are to the declaration, and deliver a certificate to the alien; sect. 5, of customs to transmit declaration, &c. to secretary of state; certificates of aliens departing the realm to be transmitted tary of state; sect. 7, new certificates are to be issued in lieu as are lost; sect. 8, all certificates are to be granted without he act is not to affect foreign ministers or their servants, nor who have been resident three years and obtained a certificate , nor aliens under fourteen years of age (s. 11). [See Vol. I., tit. "*Aliens*," for various penalties.]

6 Will. 4, c. 11.

II. *The Naturalization Acts*, 1870.

he Naturalization Act, 1870," 33 Vict. c. 14, "An Act to amend w relating to the legal condition of Aliens and British Sub- repeals the previous act of 7 & 8 Vict. c. 66, 4 and is itself ed by "The Naturalization Oath Act, 1870," 33 & 34 Vict. passed three months after, to cure an omission as to the taking aths of allegiance on naturalization. It will be desirable to he provisions of these acts under convenient heads, with the l regulations and other matters in notes to the enactments:—

33 Vict. c. 14; 33 & 34 Vict. c. 102.

Status of Aliens in the United Kingdom.
National Status of Married Women and Infant Children.
Expatriation.
Naturalization and Resumption of British Nationality.
Form of Oath of Allegiance.
Regulations as to Evidence.
Secretary of State's Regulations as to Forms and Registration of Declarations, and as to taking of Oaths of Allegiance.

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(1) *Status of Aliens in the United Kingdom.*

pacity of an Alien as to Property.] By 33 Vict. c. 14, s. 2, al and personal property of every description may be taken, ired, held and disposed of by an alien in the same manner in all cts as by a natural-born British subject;—and a title to real personal property of every description may be derived through, , or in succession to an alien in the same manner in all respects hrough, from or in succession to a natural-born British sub- : Provided,—

.) That this section shall not confer any right on an alien to hold

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33 Vict. c. 14, s. 18, repeals certain acts in the schedule, amongst ch, relating to England, is the 7 & 8 Vict. c. 66, and sect. 47 of the ies Act, 6 Geo. 4, c. 50.

33 Vict. c. 14; 33 & 34 Vict. c. 102.

real property situate out of the United Kingdom not qualify an alien for any office or for any parliamentary or other franchise:

(2.) That this section shall not entitle an alien to a privilege as a British subject, except such privileges in respect of property as are hereby given to him:

(3.) That this section shall not affect any estate or real or personal property to which any person h become entitled, either mediately or immediate session or expectancy, in pursuance of any made before the passing of this act, or in pursua devolution by law on the death of any person dy the passing of this act."

By sect. 13, nothing in the act is to "affect the grant o denization by her Majesty," or (by s. 14) "qualify an a the owner of a British ship."

Power of Naturalized Aliens to divest themselves of their certain cases.] By 33 Vict. c. 14, s. 3, "Where her M entered into a convention with any foreign state to the e the subjects or citizens of that state who have been natu British subjects may divest themselves of their status as s jects, it shall be lawful for her Majesty, by order in c declare that such convention has been entered into by her —and from and after the date of such order in council, an being originally a subject or citizen of the state referred t order, who has been naturalized as a British subject, ma such limit of time as may be provided in the convention, declaration of alienage, and from and after the date of his s such declaration such person shall be regarded as an alie a subject of the state to which he originally belonged as A declaration of alienage may be made as follows; that is if the declarant be in the United Kingdom in the presen *justice of the peace*,—if elsewhere in her Majesty's domini presence of any judge of any court of civil or criminal ju of *any justice of the peace*, or of any other officer for the t authorized by law in the place in which the declarant is to a an oath for any judicial or other legal purpose. If out o jesty's dominions in the presence of any officer in the dip consular service of her Majesty." 5

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5 *Definition of Terms.*] By 33 Vict. c. 14, s. 17 (*inter alia*); in the diplomatic service of her Majesty" shall mean any a minister, or chargé d'affaires, or secretary of legation, or any pointed by such ambassador, minister, chargé d'affaires, or s legation to execute any duties imposed by this act on an off diplomatic service of her Majesty: "Officer in the consular ser

British-born Subject may cease to be such.] Sect 4. "Any who by reason of his having been born within the dominions Majesty is a natural-born subject, but who also at the time birth became under the law of any foreign state a subject of ate, and is still such subject, may, if of full age and not under ability, make a declaration of alienage in manner aforesaid, m and after the making of such declaration of alienage such shall cease to be a British subject. Any person who is born her Majesty's dominions of a father being a British subject of full age, and not under any disability [*i. e.*, 'the status an infant, lunatic, idiot, or married woman,' s. 17], make a tion of alienage in manner aforesaid, and from and after the of such declaration shall cease to be a British subject." 33 Vict. c. 14; 33 & 34 Vict. c. 102.

not entitled to Jury de medietate linguæ.] Sect. 5. "From the passing of this act, an alien shall not be entitled to be a jury de medietate linguæ, but shall be triable in the same as if he were a natural-born subject."

National Status of Married Women and Infant Children.

onal Status of Married Women and Infant Children.] By c. 14, s. 10, "The following enactments shall be made hall apply'] with respect to the national status of women and n:—

A married woman shall be deemed to be a subject of the state of which her husband is for the time being a subject:

A widow being a natural-born British subject who has become an alien by or in consequence of her marriage, shall be deemed to be a statutory alien, and may as such at any time during widowhood obtain a certificate of re-admission to British nationality in manner provided by this act:

Where the father being a British subject, or the mother being a British subject and a widow, becomes an alien in pursuance of this act, every child of such father or mother who during infancy has become resident in the country where the father or mother is naturalized, and has, according to the laws of such country, become naturalized therein, shall be deemed to be a subject of the state of which the father or mother has become a subject, and not a British subject:

Where the father or the mother being a widow, has obtained a certificate of re-admission to British nationality, every child of such father or mother who during infancy has become resident in the British dominions 6 with such father

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ty" shall mean and include consul-general, consul, vice-consul, and ar agent, and any person for the time being discharging the duties sul-general, consul, vice-consul, and consular agent.

Definition of Term.] By 33 Vict. c. 14, s. 17, the term "British pos-

33 Vict. c. 14; 33 & 34 Vict. c. 102.

or mother shall be deemed to have resumed the p
a British subject to all intents:

(5.) Where the father, or the mother being a widow, ha
a certificate of naturalization in the United Kingd
child of such father or mother who during in
become resident with such father or mother in a
the United Kingdom, shall be deemed to be a n
British subject."

(3) *Expatriation.*

Capacity of British Subject to renounce Allegiance to Her
By 33 Vict. c. 14, s. 6, "Any British subject who has at
before, or may at any time after the passing of this act, wh
foreign state and not under any disability [*i. e.* 'the status
an infant, lunatic, idiot, or married woman,' s. 17] vo
become naturalized in such state, shall, from and after th
his so having become naturalized in such foreign state, b
to have ceased to be a British subject and be regarded as
provided—

(1.) That where any British subject has before the passin
act voluntarily become naturalized in a foreign s
yet is desirous of remaining a British subject, he
any time within two years after the passing of
make a declaration that he is desirous of rema
British subject, and upon such declaration herein
ferred to as a declaration of British nationality bein
and upon his taking the oath of allegiance, the d
shall be deemed to be and to have been contin
British subject; with this qualification, that he sh
when within the limits of the foreign state in which
been naturalized, be deemed to be a British subject
he has ceased to be a subject of that state in pursu
the laws thereof, or in pursuance of a treaty to that

(2.) A declaration of British nationality may be made, a
oath of allegiance be taken as follows; that is to s
the declarant be in the United Kingdom in the pres
a justice of the peace;—if elsewhere in her Ma
dominions in the presence of any judge of any co
civil or criminal jurisdiction, of *any justice of the pe*
of any other officer for the time being authorized by
the place in which the declarant is to administer a
for any judicial or other legal purpose. If out o

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session" shall mean any colony, plantation, island, territory, or settl
within her Majesty's dominions, and not within the United King
and all territories and places under one legislature are deemed to b
British possession for the purposes of this act.

Majesty's dominions in the presence of any officer in the diplomatic or consular service of her Majesty." [See *Note* 5, p. 1318, for definitions of these officers.] 33 Vict. c. 14; 33 & 34 Vict. c. 102.

ing of Allegiance prior to Expatriation.] By sect. 15, "Where British subject has in pursuance of this act become an alien, all not thereby be discharged from any liability in respect of its done before the date of his so becoming an alien."

(4) *Naturalization and Resumption of British Nationality.*

ificate of Naturalization.] By 33 Vict. c. 14, s. 7, "An alien within such limited time before making the application hereinmentioned as may be allowed by one of her Majesty's princi- secretaries of state, either by general order or on any special ion, has resided in the United Kingdom for a term of not less five years, or has been in the service of the crown for a term t less than five years, and intends, when naturalized, either to e in the United Kingdom, or to serve under the crown, may y to one of her Majesty's principal secretaries of state for a ficate of naturalization. The applicant shall adduce in support is application such evidence of his residence or service, and tion to reside or serve, as such secretary of state may require. said secretary of state, if satisfied with the evidence adduced, l take the case of the applicant into consideration, and may, or without assigning any reason, give or withhold a certificate e thinks most conducive to the public good, and no appeal shall hom his decision, but such certificate shall not take effect until applicant has taken the oath of allegiance. An alien to whom tificate of naturalization is granted, shall in the United King- s be entitled to all political and other rights, powers, and privi- s, and be subject to all obligations to which a natural-born ish subject is entitled or subject in the United Kingdom, with qualification, that he shall not, when within the limits of the ign state of which he was a subject previously to obtaining his ficate of naturalization, be deemed to be a British subject as he has ceased to be a subject of that state in pursuance of laws thereof, or in pursuance of a treaty to that effect. The l secretary may in manner aforesaid grant a special certificate of uralization to any person with respect to whose nationality as a ish subject a doubt exists, and he may specify in such certificate at the grant thereof is made for the purpose of quieting doubts as the right of such person to be a British subject, and the grant such special certificate shall not be deemed to be any admission at the person to whom it was granted was not previously a British bject. An alien who has been naturalized previously to the ssing of this act may apply to the secretary of state for a certifi-

33 Vict. c. 14; 33 & 34 Vict. c. 102.

cate of naturalization under this act, and it shall be lawf
said secretary of state to grant such certificate to such n
alien upon the same terms and subject to the same con
and upon which such certificate might have been grant
alien had not been previously naturalized in the United I
[*Vide* Regulations of Home Secretary, *post*, p. 1325, as
of making applications for these certificates.]

Certificate of Re-admission to British Nationality.] Se
natural-born British subject who has become an alien in
of this act, and is in this act referred to as a statutory a
on performing the same conditions and adducing the sam
as is required in the case of an alien applying for a ce
nationality, apply to one of her Majesty's principal
of state for a certificate hereinafter referred to as a ce
re-admission to British nationality, re-admitting him to
of a British subject. The said secretary of state shall hav
discretion as to the giving or withholding of the certif
the case of a certificate of naturalization, and an oath of
shall in like manner be required previously to the issu
certificate. A statutory alien to whom a certificate of re
to British nationality has been granted shall, from the d
certificate of re-admission, but not in respect of any prev
action, resume his position as a British subject; with t
cation, that within the limits of the foreign state of which
a subject, he shall not be deemed to be a British subjec
has ceased to be a subject of that foreign state according
thereof, or in pursuance of a treaty to that effect. The j
by this act conferred on the secretary of state in the Un
dom in respect of the grant of a certificate of re-admissio
nationality, in the case of any statutory alien being in a
possession, may be exercised by the governor of such
[which term is to 'include any person exercising the ch
rity in such possession,' sect. 17]; and residence in such
shall, in the case of such person, be deemed equivalent t
in the United Kingdom."

(5) *Form of Oath of Allegiance.*

By 33 Vict. c. 14, s. 9, "The oath in this act referre
oath of allegiance shall be in the form following; that i

'I do swear that I will be faithful and bear true allegi
Majesty Queen Victoria, her heirs and successors, according
help me God.'"

[By the Home Secretary's regulations referred to *po*
this oath is to be *subscribed* as well as taken.]

(6) *Regulations as to Evidence.*

33 Vict. c. 14; 33 & 34 Vict. c. 102.

33 Vict. c. 14, s. 12, "The following regulations shall be with respect to evidence under this act:—

(1) Any declaration authorized to be made under this act may be proved in any legal proceeding by the production of the original declaration, or of any copy thereof certified to be a true copy by one of her Majesty's principal secretaries of state, or by any person authorized by regulations of one of her Majesty's principal secretaries of state to give certified copies of such declaration,—and the production of such declaration or copy shall be evidence of the person therein named as declarant having made the same at the date in the said declaration mentioned:

(2) A certificate of naturalization may be proved in any legal proceeding by the production of the original certificate, or of any copy thereof certified to be a true copy by one of her Majesty's principal secretaries of state, or by any person authorized by regulations of one of her Majesty's principal secretaries of state to give certified copies of such certificate:

(3) A certificate of re-admission to British nationality may be proved in any legal proceeding by the production of the original certificate, or of any copy thereof certified to be a true copy by one of her Majesty's principal secretaries of state, or by any person authorized by regulations of one of her Majesty's principal secretaries of state to give certified copies of such certificate:

(4) Entries in any register authorized to be made in pursuance of this act shall be proved by such copies and certified in such manner as may be directed by one of her Majesty's principal secretaries of state,—and the copies of such entries shall be evidence of any matters by this act or by any regulation of the said secretary of state authorized to be inserted in the register:

(5) 'The Documentary Evidence Act, 1868,' [7] shall apply to any regulation made by a secretary of state, in pursuance of or for the purpose of carrying into effect any of the provisions of this act."

(7) *Secretary of State's Regulations as to Forms and Registration of Declarations, and as to taking of Oaths of Allegiance.*

Regulations as to Registration.] By 33 Vict. c. 14, s. 11, "One of

[7] See this act, 31 & 32 Vict. c. 37, referred to in the Introduction in vol. I., *ante*, pp. 102, 103.

33 Vict. c. 14; 33 & 34 Vict. c. 102.

her Majesty's principal secretaries of state may by regulat
vide for the following matters:—

(1.) The form and registration of declarations of British
ality:

(2.) The form and registration of certificates of naturali
the United Kingdom:

(3.) The form and registration of certificates of re-adm
British nationality:

(4.) The form and registration of declarations of alienag

(5.) The registration by officers in the diplomatic or
service of her Majesty of the births and deaths o
subjects who may be born or die out of her M
dominions, and of the marriages of persons marri
of her Majesty's embassies or legations:

(6.) The transmission to the United Kingdom for the
of registration or safe keeping, or of being pro
evidence of any declarations or certificates made
suance of this act out of the United Kingdom, c
copies of such declarations or certificates, also of
entries contained in any register kept out of th
Kingdom in pursuance of or for the purpose of
into effect the provisions of this act:

(7.) With the consent of the treasury the imposition a
cation of fees in respect of any registration auth
be made by this act, and in respect of the ma
declaration or the grant of any certificate authori
made or granted by this act.

The said secretary of state, by a further regulation, ma
alter, or add to any regulation previously made by him
ance of this section.

"Any regulation made by the said secretary of state i
ance of this section shall be deemed to be within the pow
ferred by this act, and shall be of the same force as if it
enacted in this act, but shall not, so far as respects the i
of fees, be in force in any British possession, and shall n
as respects any other matter, be in force in any British p
in which any act or ordinance to the contrary of or inc
with any such direction may for the time being be in forc

Regulations as to Oaths of Allegiance.] By the amendi
called "The Naturalization Oath Act, 1870," 33 & 34 Vic
s. 1, "The power of making regulations vested in on
Majesty's principal secretaries of state by 'The Naturaliza
1870,' [sect. 11] shall extend to prescribing as follows:—

(1.) The persons by whom the oaths of allegiance may
nistered under that act:

(2.) Whether or not such oaths are to be subscribed a

taken, and the form in which such taking and subscription are to be attested: 33 Vict. c. 14; 33 & 34 Vict. c. 102.

The registration of such oaths:

The persons by whom certified copies of such oaths may be given:

The transmission to the United Kingdom for the purpose of registration or safe keeping or of being produced as evidence of any oaths taken in pursuance of the said act out of the United Kingdom, or of any copies of such oaths, also of copies of entries of such oaths contained in any register kept out of the United Kingdom in pursuance of this act:

The proof in any legal proceeding of such oaths:

With the consent of the treasury, the imposition and application of fees in respect of the administration or registration of any such oath.

ro last paragraphs in the eleventh section of 'The Natu-
ion Act, 1870,' shall apply to regulations made under this
i. e., beginning with the words "the said secretary of state,
nd "any regulation made by," p. 1324].

ler the powers given him by these enactments and 33 Vict.
s. 7, *ante*, p. 1321, the Home Secretary, in August, 1870, and
ry, 1871, has made certain regulations, a summary of which
ollows:—

Provides forms of declarations to be made:—1st, of alienage by a naturalized British subject; 2nd, of alienage by a person born within British dominions; 3rd, of alienage by a person who is by origin a British subject; and 4th, of British nationality:

Provides the forms of certificates to be granted:—1st, of naturalization to an alien; 2nd, of naturalization under the acts of 1870, to an alien naturalized under the Act of 1844; 3rd, of naturalization to a person with respect to whose nationality a doubt exists; and 4th, of re-admission to British nationality:

The manner of making applications to the Home Secretary for certificates of naturalization in three cases referred to in 33 Vict. c. 14, s. 7, *ante*, p. 1321, viz.:—1st, any alien; 2nd, any person who has been already naturalized; 3rd, any person désirous of re-admission to British nationality, must present to the Home Office a memorial praying for the grant of such certificate, which memorial must state, according to the circumstances of each of these three cases—

(1) His name, address, age, profession, trade or other occupation of the applicant;

(2) Of what foreign state the applicant is [*or* was originally] a subject [not necessary in 3rd case];

(3) Whether the applicant is married, and has any children under age residing with him. and, if so, to state their names and ages;

33 Vict. c. 14; 33 & 34 Vict. c. 102.

(4) The date of the applicant's former naturalization [i only];

(5) [In the 3rd case only.] That the applicant was a na British subject by reason of having been born territory, or by reason of his or her father or gr by the father's side, having been a British subject

(6) [In the 3rd case only.] That the applicant became or citizen of a foreign state. The name of the fo must be specified, and the mode in which the became an alien. If the applicant became ar naturalization, the date of such naturalization mentioned; or if the applicant be a widow who alien by marriage with her late husband, the date of such marriage, the name of her husband, and t state of which he was a subject, must be mentione

(7) That during the period of eight years preceding the tion, the applicant has for five years resided w United Kingdom (the place or places of such reside specified), or that during the same period of eight has for five years been in the service of the crown in which he served being specified);

(8) That the applicant intends to reside in the United K or to serve under the crown:

4. The Home Secretary requires the applicant to verify the ments in his memorial by a declaration made before a m or other person authorized to receive such declaration pu 5 & 6 Will. 4. c. 62. They are to be further verified, respectability and loyalty of the applicant vouched for, claration made in like manner by four householders natural-born British subjects, and neither of them the solicitor of the memorialist. The declaration may be such declarants jointly or by each separately; but each declarants must, in his declaration, state, as to himself, that he is a householder and a natural-born British subj place of his residence, and the period during which he sonally known the applicant:

5. After obtaining the Home Secretary's certificate, the oath giance (given *ante*, p. 1322) is to be subscribed as well as t England before "*any justice of the peace* or any comm authorized to administer oaths in chancery" [but see sect. Vict. c. 14, *ante*, p. 1320, as to certain declarations to whi regulation does not apply]:

6. The oath of allegiance may be proved in any legal proceeding production of the original certificate, or of any copy there fied to be a true copy by a principal or under secretary of st

7. Every declaration, whether of alienage or British nationalit every certificate, whether of naturalization or of re-admis British nationality, and every oath of allegiance, is to be reg in the Home Office, where certified copies of the same m obtained:

With the consent of the treasury, fees may be taken and applied as follows:— 33 Vict. c. 14; 33 & 34 Vict. c. 102.

	£	s.	d.	
For taking a declaration ..	0	2	6	To the clerk of justice taking it.
For granting a certificate, whether of naturalization or re-admission to British nationality, and for registering the same, together with the oath of allegiance	1	0	0	Into H. M.'s exchequer as treasury shall direct.
For administration of the oath of allegiance	0	2	6	To the clerk of justice or other person administering oath.
For transmitting a declaration, with or without oath, for registration	0	0	6	To the clerk of justice.
For registration of declaration, with or without oath of allegiance	0	10	0	H. M.'s exchequer.
For certified copy of any declaration or certificate, with or without oath	0	10	0	H. M.'s exchequer.

APPRENTICES.[8]

As to Parish Apprentices.

As to Apprentices in general.

As to Disputes between Masters and Apprentices under "The Employers and Workmen Act, 1875" (38 & 39 Vict. c. 90).

I. *As to Parish Apprentices.*

We can only here give the purport of the numerous statutes upon, for to give even a short abstract of them would occupy a large number of pages, and for fuller information the reader is referred to 1 Burn's Justice, 29th ed. tit. "*Apprentices.*"

Binding.] Inquiry and order of two justices for binding out apprentice (56 Geo. 3, c. 139, s. 1) in parishes not within an union.[9] [Forms, Nos. 1, 2, p. 692, Oke's "*Formulist,*" 6th edit.] Two justices, where the binding parish is, to sign allowance of indenture (ibid.), or where the child is to serve (56 Geo. 3, c. 139, s. 2). [Forms,

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[8] As to the trades and extent of justices' jurisdiction in these matters, see *Note* 18, Vol. I. p. 296.

[9] In unions or parishes under guardians, the 7 & 8 Vict. c. 101, s. 12, requires the guardians to bind out apprentices without the interposition of justices. *Vide* Form of Indenture, No. 3, p. 693, Oke's "*Formulist,*" 6th ed., which is exempted from stamp duty by the Stamp Act, 1870, 33 & 34 Vict. c. 97 (schedule "*Apprenticeship, Instrument of*").

Nos. 4, 5, p. 697 (Id.)];—or in boroughs, &c. by a justic borough, &c., and one of the county (3 & 4 Will. 4, c. 63, or in the metropolitan police district by a single police m (2 & 3 Vict. c. 71, s. 14; *Reg.* v. *St. George, Bloomsbury*, 2 (N. S.) M. C. 200). Similar provisions are in the Merchant S Act, 17 & 18 Vict. c. 104, ss. 141—145, 519, as to apprent in the sea service.

Master removing or dying.] Two justices, on the master re may make order for continuing, assigning or discharging ap (56 Geo. 3, c. 139, s. 8);—or in case of the master dying, prentice continuing with widow, &c. (32 Geo. 3, c. 57, s. 2). [Nos. 6—9, pp. 698, 699, Oke's "*Formulist*," 6th edit.]

Assignment.] Two justices to give their written con assignment of apprentice to another master (32 Geo. 3, c. 5 [Forms, Nos. 10, 11, p. 699, Oke's "*Formulist*," 6th edit.]

Enforcing Covenant for Maintenance.] Master, or execu master, neglecting to maintain and provide for apprentice a ing to covenant for that purpose in the indenture, two j where the apprentice belongs, on complaint of apprentice or seers, may issue distress warrant on personal effects of such r for the sum necessary for the maintenance of the apprenti Geo. 3, c. 57, ss. 6, 9; and see 7 & 8 Vict. c. 101, s. 12, Offen 6, Vol. I. p. 300, for penalty on master neglecting to perform ditions in indenture made by guardians). [Forms, Nos. 12 pp. 699, 700, Oke's "*Formulist*," 6th edit.]

Master becoming Insolvent or Bankrupt.] Two justices, on a cation of master, may inquire into the matter and discharg apprentice if not more than £5 given as premium (32 Geo. 3, c ss. 8, 9). [Forms, Nos. 11, 12, p. 699, Oke's "*Formulist*," 6th On the master's bankruptcy the apprentice is discharged from indenture (see 32 & 33 Vict. c. 71, s. 33).

II. *As to Apprentices in general.*[10]

4 Geo. 4, c. 34. *Recovery of Wages.*] Not exceeding £10, recovered before on more justice or justices where apprentice employed (s. 2). Master and Servant Act, 1867 (30 & 31 Vict. c. 141, continued force till 20th August, 1872, by 34 & 35 Vict. c. 95), which app to offences by apprentices, does not affect the earlier enactment to the recovery of their wages, which are still in force. These wa may be enforced notwithstanding the term of apprenticeship h expired, and was determined before the making of the compla (*Reg.* v. *Proud*, 36 L. J. (N. S.) M. C. 62; 16 Law T., N. S. 36 The provisions of 11 & 12 Vict. c. 43, as to the process to be issu

10 *Vide* Form of usual Indenture of Apprenticeship, No. 16, pp. 7 701, Oke's "*Formulist*," 6th ed.

master or mistress on *complaints* (Vol. I. p. 152, where an llows the adjudication, will be applicable here. The agent nan, if the master resides at a considerable distance, &c., may mmoned and the amount levied on the goods of the master In default of distress, imprisonment for not exceeding three ar months, unless the amount, costs of obtaining the order, ress and conveyance to gaol, be sooner paid (11 & 12 Vict. s. 32). If the master is bankrupt, see 32 & 33 Vict. c. 71, [Forms, Nos. 19—22, pp. 702, 703, Oke's "*Formulist.*" 4 Geo. 4, c. 34.

rentices enlisting into Army or Marines and claimed by Master.] Vict. c. 9, ss. 57, 58; 34 Vict. c. 10, ss. 68, 69, 70. [Forms, 7, 18, Oke's "*Formulist,*" 6th ed. p. 702.

. *As to disputes between Masters and Apprentices under "The Employers and Workmen Act,* 1875" (38 & 39 Vict. c. 90).

s above statute confers additional powers upon justices to deter- disputes between masters and apprentices, the 5th section ing, that "Any dispute between an apprentice to whom this pplies and his master, arising out of or incidental to their ion as such (which dispute is hereinafter referred to as a dispute r this act), may be heard and determined by a court of sum- y jurisdiction." 38 & 39 Vict. c. 90.

what Apprentices the Act applies.] The 12th section enacts, that is act in so far as it relates to apprentices shall apply only to pprentice to the business of a workman as defined by this act whose binding either no premium is paid, or the premium (if paid does not exceed £25, and to an apprentice bound under provisions of the acts relating to the relief of the poor."

he words in the above section, "shall apply only to an apprentice he business of a workman as defined by this act," are somewhat biguous. The word "workman," as defined by the 10th section, oes not include a domestic or menial servant, but save as afore- d, means any person who, being a labourer, servant in husbandry, rneyman artificer, handicraftsman, miner or otherwise engaged in nual labour, whether under the age of twenty-one years or above it age, has entered into or works under a contract with an em- yer, whether the contract be made before or after the passing of is act, be expressed or implied, oral or in writing, and be a con- ct of service or a contract personally to execute any work or bour."

The definition is hardly satisfactory as applicable to an apprentice, d adopting the view of Mr. Davis in his "Labour Laws," it is obable that the words "the business of a workman as defined by is act" mean "the business of an employer of a workman within he meaning of the act."

38 & 39 Vict. c. 90.

Powers of Justices in respect of Apprentices.] The 6 enacts, that "In a proceeding before a court of summary ju in relation to a dispute under this act between a maste apprentice, the court shall have the same powers as if th were between an employer and a workman, and the master employer and the apprentice the workman, and the instr apprenticeship a contract between an employer and a work shall also have the following powers:

(1.) It may make an order directing the apprentice to pe duties under the apprenticeship; and

(2.) If it rescinds the instrument of apprenticeship it thinks it just so to do, order the whole or any pa premium paid on the binding of the apprenti repaid.

Where an order is made directing an apprentice to per duties under the apprenticeship, the court may, from time if satisfied after the expiration of not less than one month date of the order that the apprentice has failed to comply th order him to be imprisoned for a period not exceeding days."

Order against Surety of Apprentice and power to Friend of tice to give Security.] The 7th section enacts, that "In a pro before a court of summary jurisdiction in relation to a disput this act between a master and an apprentice, if there is any liable, under the instrument of apprenticeship, for the good of the apprentice, that person may, if the court so direct, moned in like manner as if he were the defendant in such pro to attend on the hearing of the proceeding, and the court n addition to or in substitution for any order which the court is rized to make against the apprentice, order the person so sum to pay damages for any breach of the contract of apprentice an amount not exceeding the limit (if any) to which he is under the instrument of apprenticeship. The court may, person so summoned, or any other person, is willing to give se to the satisfaction of the court for the performance by the app of his contract of apprenticeship accept such security instead in mitigation of any punishment which it is authorized to upon the apprentice."

[See the Forms under the act, Oke's "*Formulist*," 6th ed 11—17, pp. 771, 774.

ARMS.

60 Geo. 3, c. 1.

Training to the use of.] Two justices may authorize being drilled or trained (see s. 1, 5 Burn's Jus. 29th ed. p. 7

ARTIZANS AND LABOURERS' DWELLINGS.

ice's Order to take Possession of Premises.] By "The Artizans 31 & 32 Vict.
abourers' Dwellings Act, 1868," 31 & 32 Vict. c. 130, s. 24, c. 130.
t there are two or more owners of any premises, and it appears
two justices in petty sessions, on application of any owner of
remises, that the interest of the applicant in the premises will
judiced by the neglect and default of any other owner to deal
he premises in conformity with the order so made, it shall be
l for such justices, if the applicant undertake to their satisfac-
bring the premises into conformity with such order, to make
ler empowering the applicant forthwith to take possession of
remises, and to do all such works as may be necessary for
ng the same into conformity with such order, and within
time as shall be fixed by such justices—and on non-compli-
by such last-mentioned applicant with his undertaking, it
be lawful for the justices to make a like order in favour of any
owner."

tice's Order to Owner or Occupier to permit Local Authority to Act into effect.] By sect. 36, "if the occupier of any premises
nts the owner thereof,—or if the owner or occupier of any pre-
prevents the officer of health, or their officers, agents, servants
rkmen,—from carrying into effect with respect to the premises
f the provisions of this act, after notice of the intention so to do
een given to the occupier, or, as the case shall be, to the owner,
ustice on proof thereof may make an order in writing requiring
ccupier to permit the owner,—or, as the case shall be, requiring
wner or occupier, or both, to permit the officer of health, or the
authority, and their officers, agents, servants and workmen,—to
l things requisite for carrying into effect with respect to the
ises the provisions of this act,—and if at the expiration of ten
after the service of such order of the justice the occupier or
r fails to comply therewith, every person so offending shall for
r day during which the failure continues forfeit not exceeding
ty pounds [Offence 2, Vol. I. p. 302];—provided that, during
such failure by the occupier, the owner, unless assenting thereto,
not be liable to the forfeiture."

BAKEHOUSES.

'arrant to enter Bakehouses.] By "The Bakehouse Regulation 26 & 27 Vict.
1863," sect. 6 (see *Notes* 30, 31, and Offence 4, tit. "*Bakehouses*," c. 40.
I. pp. 306, 308), it is provided, *inter alia*, that "it shall be lawful
n inspector who is refused admission to any bakehouse, in pur-
nce of this section, to apply to any justice for a warrant authoriz-
him, accompanied by a police constable, to enter into any such
bakehouse for the purpose of examining the same, and to enter the
e accordingly."

BASTARDS.

I. *Application for and Issue of Summons.*
II. *Hearing and making of the Order.*
III. *Enforcing Order.*
IV. *Appeal against Order, &c.*

[The Forms applicable to the subject will be found "*Formulist*," 6th ed. pp. 704—731.]

I. *Application for and Issue of Summons.*

35 & 36 Vict. c. 65.

Times of Application for a Summons.] By 35 & 36 V
s. 3, any single woman 11 who may be with child,
or who may be delivered of a bastard child after the
this act,
may, either before the birth, or at any time within twel

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11 *Who are "Single Women"—Duration of Order when Married.*] A married woman may also make application if not with her husband, and an order may be made in her favour. *Collingwood*, 17 L. J. (N. S.) M. C. 168; and *Reg.* v. *Pilkington* 546. Justices may take into account all usual presumptions to non-access of the husband (*Sibbet* v. *Ainsley*, 3 Law T., *Yates* v. *Chippendale*, 26 J. P. 182). A widow also is with (*Reg.* v. *Wymondham*, 2 Q. B. 541; *Antony* v. *Cardingham*, 2 Bott, 194). It has been said that the order in the case of woman may describe her as "E., the wife of C. D., single wo it may adjudge the weekly payment "until the said child shall age of thirteen years, or shall die, or the said C. D. shall aga cohabit with his said wife the said E. D., or the said E. D. s again after the decease of her said husband the said C. D.:" case of *Ex parte Grimes*, 22 L. J. (N. S.) M. C. 153, a mand issued to justices to enforce an order made in favour of a marr after the return of the husband, as the liability of the puta does not thereby cease. An order cannot be made in respect born abroad of a foreign woman, or an Englishwoman out o (*Reg.* v. *Blanc*, 18 L. J. (N. S.) M. C. 153); but it may be born on the high seas in a British ship (*Marshall* v. *Murgatroy* (N. S.) M. C. 7; 23 Law T., N. S. 393). Where, however, begotten in Ireland, but born in England, the father being a living in Ireland at the time of the birth, it was held that an valid (*Hampton* v. *Rickard*, 43 L. J., M. C. 133). Where, woman who, while single, had been delivered of a bastard ch quently married, and while living with her husband applied fo ation summons against the putative father: it was held, that had no jurisdiction to hear the complaint (*Stacey* v. *Lintell* Q. B. D. 291; 48 L. J., M. C. 108; 40 Law T. Rep. 553). T of a bastard child, while a single woman, obtained a summ affiliation order which could not be served, the putative fat absconded. About fifteen months afterwards the putative fath to pay, and did pay a weekly sum towards the maintenance o until the mother married. After the marriage, and while her husband, the mother obtained a second summons, upon justices made an order, upon which the Court above held tha no jurisdiction to make it (*Tozer* v. *Lake*, 41 Law T. Rep. 28 656).

he birth of such child, or at any time thereafter, upon proof 35 & 36 Vict.
e man alleged to be the father of such child, has within the c. 65.
months next after the birth of such child paid money for its
nance, or at any time within the twelve months next after the
to England of the man alleged to be the father of such
12 upon proof that he ceased to reside in England within the
months next after the birth of such child, make application
one justice of the peace acting for the petty sessional division
county, or for the city, borough, or place in which she may
13 for the summons to be served on the man alleged by her
he father of the child, and if such application be made before
rth of the child, the woman shall make a deposition upon
ating who is the father of such child, and such justice of the
shall thereupon issue his summons to the person alleged to
father of such child to appear at a petty sessions to be
after the expiration of six days at least for the petty

Issue of Summons.] In *Potts* v. *Cumbridge* (27 L. J. (N. S.) M. C. Law T. 257), where the application was made within twelve although from the putative father's residence not being known, his being absent, the summons was not granted until after that it was held sufficient, and the justices had jurisdiction (see also *Chagg*, 22 Law T., N. S. 556, to the same purport). If the justiceiving the application is dead, another justice cannot issue another ons, the former one not being acted upon or served, and the second after the twelve months (*Reg.* v. *Pickford*, 30 L. J. (N. S.) M. C. Law T, N. S. 210); but successive summonses may be issued justices without a fresh application for each (*Ex parte Fielding*, P. 759), if the case has not been heard and dismissed (*Reg.* v. 8 Law T., N. S. 460). See also *Reg.* v. *Lancashire (Justices of)*, 29 T., N. S. 886. As to second application, see p. 1336, and *Note* 18.

Definition of "Petty Sessional Division"—Residence.] By 8 & 9 Vict. 10, the term "petty sessional division" in this section is to be to include any division of a county, riding, or division having a ate commission in which one or more petty sessions have been or be usually held, or any division for the holding of special sessions or to be formed under the 9 Geo. 4, c. 43, or the 6 Will. 4, c. 12; that where there are two or more petty sessions usually held in ch division, or where any justice acts for two or more of such divi- he shall require the party whom he shall summon under the rity of the 7 & 8 Vict. c. 101, to appear at the petty session to be in any such division, as he shall deem fit (see *R.* v. *Whittles*, 18 L. J. M. C. 96). In *Reg.* v. *Hughes* (26 L. J. (N. S.) M. C. 133; 1 & Bell, C. C. 188), it was held, that if a woman goes to and lodges place for the purpose of applying to the magistrates there for an of affiliation, intending to leave the place as soon as she has got the r, she having at the time no other residence, and not having gone for any fraudulent or improper purpose, she is resident at the place in this section. But if she remove for the purpose of getting a new mal after having failed on a full hearing on the merits, she is not dent in the latter place so as to give jurisdiction to make an order der v. *Myott*, 32 L. J. (N. S.) M. C. 138; *S. C.*, *Reg.* v. *Myott*, 7 Law N. S. 785). If the woman is in an union workhouse, that is the place her residence and not her parish, as 7 & 8 Vict. c. 101, s. 56, does not ly to a case of bastardy.

35 & 36 Vict. c. 65.

sessional division, city, borough, or other place in w
justice usually acts."

The application *before* birth is to be upon oath (s. 2
summons is to issue to the man to appear on a day afte
when the mother expects the child to be born,—and the
be adjourned from time to time if she cannot attend or t
not born at the time appointed by the summons; but
cannot be made on that application if she does not ap
petty sessions within the space of two calendar month
birth of the child (8 & 9 Vict. c. 10, s. 4).14 She might
commence her proceedings *de novo*, and make an applic
birth. [Forms of Application, Nos. 1, 3 and 5, pp. 704
Oke's "*Formulist*, 6th edit.]

In the case of twins one application and summons, alt
are recommended, would suffice; and in the order
weekly sum should be awarded for each, so that if one ch
die, a distinct sum may appear on the face of it to be p
the other.

A summons is to be issued to the person alleged to be
to appear at the petty sessions, to be holden after the ex
six days at the least [*i. e.* clear days, exclusive of the fir
days], for the petty sessional division, &c. in which su
usually acts (35 & 36 Vict. c. 65, s. 3, and *Note* 13, p. 13

Witnesses.] Any justice may, on request of either pa
a summons to a witness; on non-appearance, and proof
service and reasonable expenses tendered, a warrant
granted. On appearance refusing to give evidence, co
prison for not exceeding fourteen days, or until he sh
submit himself to be examined (7 & 8 Vict. c. 101, s. 70)

II. *Hearing and making of the Order.*

Hearing.] By 35 & 36 Vict. c. 65, s. 4, after the bi
child, on the appearance of the person summoned [person
counsel or attorney, 8 & 9 Vict. c. 10, s. 7], or on proof o
mons having been duly served on such person, or left at hi
of abode six days at least before (*vide supra*), 15 the justic

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14 Where the putative father has paid the mother a sum
no bar to the mother's afterwards applying for, and the justi
an order, but they ought to take such contract into considerati
other circumstances, and then exercise their discretion as to
order (*Follit* v. *Koetzow*, 29 L. J. (N. S.) M. C. 128; 2 Law T.
See also *Crowhurst and Wife* v. *Laverack*, 22 L. J. (N. S.) E
the terms of 7 & 8 Vict. c. 101, s. 3, *supra*, which seems to
order being made adjudging the man to be the putative fath
adjudging the sum for maintenance.

15 *Service of Summons.*] A summons to the putative fath
served in Scotland, or out of England and Wales, and justi

35 & 36 Vict. c. 65.

s as before stated are to hear the evidence of the woman,— corroborated in some material particular by other *testimony* r some other witness 16] to their satisfaction, they may e the man to be the putative father;—and if they see fit, regard to all the circumstances, make an order on him for it to the mother, or to any other person appointed to have tody of the child under the provisions of this act, of a sum ey weekly [see *Note* 14, *ante*, p. 1334, and see p. 1336, *ut to be ordered*," *&c.*], and of the costs of obtaining the 17, and of the expenses incidental to the birth of such child

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ion to make an order upon such service. (Per *Erle* and *Crompton*, rd *Campbell, dissentient*, *Reg.* v. *Lightfoot*, 25 L. J. (N. S.) M. C. Law T. 235.) In *Reg.* v. *Higham* (26 L. J. (N. S.) M. C. 116), aving reason to anticipate proceedings against him as the putaher of a bastard child, born in the previous November, on the 17th his father's house where he had hitherto lived, and went to reh a farmer in another part of the country, whom he assisted in n, having no intention, when he left, to return to his father's the summons was left at the father's house on the 29th of July, held a good service "at the last place of abode." If the service abode has been regular, although the defendant is absent for a riod, the justices are not obliged to adjourn the hearing till his home (*Reg.* v. *Brown*, 1 Law T., N. S. 29; and *Reg.* v. *Damerell*, . (N. S.) M. C. 21). By sect. 4 of the 36 Vict. c. 9, it is enacted, n cases where the putative father of any bastard child resides out etty sessional district where the mother applies for a summons or f maintenance, it shall be lawful to prove by affidavit in the form l to in the second schedule to this act, or to the like effect that such ns or order has been duly served. Any affidavit purporting to be and attested shall be received in evidence and shall be deemed to made and attested until the contrary be shown." As to the issue monses, see *Note* 12, p. 1333.

vidence of language made use of by the defendant which may be ed into an admission by him that he was the father of the child, title the justices to determine that the evidence of the mother has rroborated in a material particular (see *Reg.* v. *Pearcy*, 18 Law T. 7 Q. B. 902; 16 Jurist, 193). In dealing with the question of the ce and effect of corroborative evidence, the justices will not be d to the consideration of the facts which occurred at or about the hen the child must have been begotten, but they may consider any stances, though long antecedent to that time, if they are of opinion ey lead to a moral conviction of their corroborating the woman's ce (*Cole* v. *Manning*, L. R., 2 Q. B. D. 611; 46 L. J., M. C. 175; r T. Rep. 941; 43 J. P. 468). In the case of an application after elve months from the birth, proof also should be given of payment ey within that period (see *Reg.* v. *James Berry* and *Reg.* v. *Fletcher*, *Note* 19); but the act does not require the mother's evidence to be orated in this particular (*Hodges* v. *Bennett*, 29 L. J. (N. S.) M. C. Law T., N. S. 190). Unless the question put to the mother affect ternity of the child, her answers are conclusive, and witnesses can- called to contradict her on the point (*Reg.* v. *Gibbons*, 31 L. J. (N. C. 98; 1 Leigh & Cave, C. C. 109); but if it does so affect the gist inquiry, evidence to contradict her may be received (*Garbutt* v. n, 32 L. J. (N. S.) M. C. 186; 8 Law T., N. S. 423).

This would include the expenses of witnesses according to the usual nce settled by the county, and the counsel or attorney's fees, if one

35 & 36 Vict. c. 65.

and of the funeral expenses of the child, provided it has d the making of such order. The defendant's appearanc objecting to the jurisdiction cures any defect in the summ of *Reg.* v. *James Berry*, *Reg.* v. *Simmons*, *Reg.* v. *Fletcher*, i *infra*). The hearing may be adjourned, but no order ca unless applied for within forty days after service of the s where application made after birth (7 & 8 Vict. c. 101, s. 4

With regard to the right of the complainant to reply, i to us that she has not that right, as the 11 & 12 Vict. c. Vol. I. p. 178, prohibiting a reply, is applicable to proce bastardy, except in the particulars pointed out in sect. 3 declares that the statute shall not be applicable "to any co warrants or orders in bastardy, except as relates to the b warrants for compelling the appearance of the putative f warrants of distress, or the levying of sums ordered to be p the imprisonment of the defendant for non-payment of th It will be observed that this section does not apply to pro generally in affiliation applications as it subsequently d reference to proceedings under the acts relating to the l children and young persons in mills and factories, but merel formal complaints, warrants, or orders in bastardy, these ments being fully provided for by the then existing statut 8 Vict. c. 10, and since by the forms issued by the Local G ment Board under the authority of sect. 6 of the 36 Vict. c. therefore, it is only in respect of these particulars that the Vict. c. 43 is not to be applicable, it would seem that such is applicable in all others, and amongst them in prohibiti right of reply as enacted in sect. 14.

A second application may be made, if within the prescribe although the former hearing was on the merits, as a dismiss the nature of a nonsuit, and is not a final adjudication agai mother, or where perjury on the part of a defendant's wit the first hearing has been discovered; but if no new evidence duced, the justices should dismiss the case.[18] But if the been an appeal to the quarter sessions against an order ma the order is quashed upon the merits, that is final (*Reg.* v. *and Others*, *Justices of Flintshire*, 41 L. J. (N. S.) M. C. 58).

Amount to be ordered and Duration of Order.] By sect. 4 35 & 36 Vict. c. 65, the justices may make an order on the pa father for the payment to the mother or to any person who m

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employed by the mother, which she is at liberty to do (8 & 9 Vict. s. 7).

18 See *Reg.* v. *Justices of Bucks*, 18 L. J. (N. S.) M. C. 113; *Machen*, Id. 213; *Ex parte Westerman*, 16 Law T. 420; *Reg.* v. 18 L. J. (N. S.) M. C. 175; *Reg.* v. *Harrington*, 9 Law T., N. S. 721; v. *Gaunt*, 36 L. J. (N. S.) M. C. 89; 16 Law T., N. S. 379.

35 & 36 Vict. c. 65.

ted to have the custody of such child of a sum of money not exceeding 5*s.* a-week for the maintenance and education child and of the expenses incidental to its birth and of the l expenses, provided it has died before the making of the and of such costs as may have been incurred in the obtaining order; and if the application be made before the birth of the r within two calendar months after the birth of the child, eekly sum may be calculated from the birth of the child. By the justices may in the order direct that the payments to be nder it in respect of the child shall continue until the child the age of sixteen years.

dant a competent Witness.] The defendant may be examined for the mother if regularly summoned as a witness, or on n behalf (see 14 & 15 Vict. c. 99, and cases thereon, Vol. I. -80, *Note* 72); 19 and it is the practice to examine the de- t when he is tendered as a witness by either party.

Money to be paid—Appointment of Guardian.] By 7 & 8 Vict. s. 5, the money is to be paid to the mother so long as she nd is of sound mind, and is not in any prison, and is not sentence of transportation;—and after her death, or whilst of d mind, or in prison, or under sentence of transportation, stices may, by consent, appoint some person to have the y of the child so long as it is not chargeable, and may revoke ppointment and appoint another in his stead, a duplicate of is to be sent to the guardians: a notice or a copy of the tment should be served on the putative father. [Form of ntment, No. 24, p. 722, Oke's "*Formulist*" 6th edit.]

ices may appoint Parish Officer to receive Payments for Bastard en.] By "The Poor Law Amendment Act, 1868," 31 & 32 . 122, s. 41, "when and so often as any bastard child for maintenance an order has been made by justices under the ions of the fifth [*should be 3rd*] section of the 7 & 8 Vict. shall become chargeable to any parish or union, any two s in petty sessions may, if they shall see fit, by order under ands and seals, from time to time appoint some relieving or officer of the parish or union to which such bastard child be so chargeable, to receive on account of such parish or union proportion of the payments then due or becoming due under der of petty sessions made under the provisions of the said may accrue during the period for which such child is charge- —and such appointment shall remain in force for the period

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See the cases of *Ex parte Crowley*, 24 Law T. 244; *Reg.* v. *Light-* 5 L. J. (N. S.) M. C. 115; *Reg.* v. *James Berry*, 28 L. J. (N. S.) 86; 1 Bell, C. C. 46; *Reg.* v. *Simmons*, 28 L. J. (N. S.) M. C. 183; 1 C. C. 168; *Reg.* v. *Fletcher*, 40 L. J. (N. S.) M. C. 123; 24 Law T., 742.

35 & 36 Vict. c. 65.

of one whole year whenever the bastard child shall be become chargeable as aforesaid, and may afterwards from time be renewed by indorsement under the hand of any or for the like period;—and so much of section seven of the as prohibits an officer of any parish or union from receivin under such order as aforesaid is hereby repealed [tit. '*B* Vol. I., Offence 1, p. 310],—and any payment so order made shall be recoverable by the relieving officer or othe appointed to receive it in the manner provided by section the said act."

Annual Return of Summonses and Orders.] An annual r summonses issued and orders made are to be sent to the cler peace (7 & 8 Vict. c. 101, s. 11), but the clerk of the pea now to send it to the home secretary (21 & 22 Vict. c. 67).

Adjournment of Proceedings where two Justices are not prese sect. 7 of the 36 Vict. c. 9, if at the time appointed for the two justices shall not be present, any one justice then prese adjourn the hearing to a certain time and place, to be t pointed in presence of the party or parties, &c.; and in the time the defendant may be suffered to be at large upon his e into a recognizance, with or without surety or sureties at t cretion of the justice, for his appearance at the time and p which such hearing shall be adjourned.

III. *Enforcing Order.*

Time, &c.] By 35 & 36 Vict. c. 65, s. 4, after one calendar from the making 20 of such order, *any one* justice, upon oat any sum is in arrear [and proof of due notice of the order. being no necessity to demand the arrears, *Wootten* v. *Harvey*, 6 75], may grant a warrant for the apprehension of the pu father; but by analogy with other cases no action lies a his executor on the order (*Stevens* v. *Jeacocks*, 17 L. J. (N. S.) 163), and when the father dies the mother's remedy is entirely The guardian appointed may, if child not chargeable to an u &c., recover the same in the manner the woman might have (s. 5); and by sect. 8, a penalty of £10 is imposed on him for applying the money or maltreating the child (see Offence 2, V p. 310). Where the mother dies, or is incapacitated, and the becomes chargeable to any parish or union by the neglect o putative father, the overseers or guardians [by their officer] make application for enforcing the order (s. 7). Although defendant may be present at the making of the verbal order.

20 That is, at the time the justices verbally announce their deci and not from the time the formal order is drawn up and signed by t (*Ex parte Johnson*, 32 L. J. (N. S.) M. C. 193; *S. C.*, *Reg.* v. *Justi Essex*, 8 Law T., N. S. 275).

ere may be said to have had "due notice of the said order," 35 & 36 Vict. c. 65.
ritten order should be personally served upon the defendant, act does not provide any other mode, that being the law in gous cases. (See *per* Lord *Ellenborough*, C. J., in *R.* v. *Kingston*, t, 52; and see *R.* v. *Almack*, 5 B. & A. 184; *R.* v. *Chandler*, st, 270.) The proof of service may be by a statutory declara- nade at the time before a justice, or, if on the application for rant for disobedience, by a deposition on oath of the person ng. On defendant being brought up, and not paying the nt with costs attending warrant, apprehension and bringing wo justices may order the same to be levied by distress, which nt may be signed by one justice under sect. 29, Vol. I. p. 216, backed under sect. 19, Id. p. 225, of 11 & 12 Vict. c. 43 (see 35, Id. pp. 129, 130). 22 Defendant may be detained until n of distress warrant. If no distress, or defendant confess he no goods [within the magistrate's jurisdiction, 8 & 9 Vict. c. 10,], he may be committed by two justices for not exceeding calendar months, unless the same, and the charges of con- nce to prison, be sooner paid (7 & 8 Vict. c. 101, s. 3); and commitment may be signed by one justice, and backed under ame authority as the distress warrant, *supra*. Not more than een weeks' pay can be recovered at one time where the woman allowed the payments to be in arrear for more than that period out application to a justice (s. 3); but if she has not allowed period to pass without application for a warrant, she is entitled he full amount due upon each application and warrant, if more one, and the defendant may be imprisoned for a distinct and ecutive term on each, and he is liable to the amount accruing ing his imprisonment. At the expiration of each thirteen weeks application may be made to a justice, and a warrant upon it ted; and the several warrants remain in force until executed. would appear, from the case of *Kendal* v. *Wilkinson* (24 L. J. S.) M. C. 89; *Note* 14, Vol. I. p. 258), that an appeal against order does not stay the justices from enforcing it by distress commitment.

he mode of enforcing an order of affiliation is not interfered h by "The Summary Jurisdiction Act, 1879" (see sect. 54 of statute).

IV. *Appeal against Order, &c.*

Time, &c.] Within twenty-four hours (Sunday excluded, *R.* v. *iddlesex*, 17 L. J. (N. S.) M. C. 111) after adjudication and

22 The 11 & 12 Vict. c. 43, s. 17, Vol. I. p. 193, does not apply to an der in bastardy, so as to allow of a minute being served instead of a py or duplicate of the order; and the usual practice is to serve a dupli- te of the order, as the exception in sect. 35 of that act does not appear authorize a minute being served.

35 & 36 Vict. c. 65.

making of the order [*i. e.* when the verbal adjudication is the petty sessions, see case in *Note* **20**, *supra*], the man is notice to the mother, and, within seven days entering into nizance before some one justice, he may appeal to the quarter sessions of the peace held after fourteen days ne the making of the order (7 & 8 Vict. c. 101, s. 4). Writte of recognizance to be forthwith given by the father to the and (unless he enter into the recognizance before one of the who make the order) to one at least of such justices; justice is bound to receive the recognizance, though he m opinion that no notice of appeal has been given, as he has r diction to inquire into that point (*In re Carter and the I Hastings*, 24 L. J. (N. S.) M. C. 72). Notice may be sent post (8 & 9 Vict. c. 10, s. 3). It may also be given verbal a verbal notice given to the mother by the clerk of the att the putative father, in his presence and by his direction verbal adjudication, is sufficient (*R.* v. *Huntingdonshire*, (N. S.) M. C. 127). Appeal may be abandoned, and the zance is not to be estreated (Id. s. 5, and see s. 6). The may be heard although the mother be dead before the served (*R.* v. *Leicestershire*, 19 L. J. (N. S.) M. C. 209). T visions of the 12 & 13 Vict. c. 45 (Vol. I. p. 252, *Note* 5) the first section, will apply to these appeals. If on the ap order is quashed after a hearing on the merits, that decision clusive (*Reg.* v. *Glynne and Others, Justices of Flintshire*, (N. S.) M. C. 58).

Guardians may recover Cost of Relief of Bastard Child in Cases.] The 5th section of the 36 Vict. c. 9 contains pr enabling the guardians of a union to recover from the father the costs of the relief of a bastard child in their unio

BATHS AND WASHHOUSES.

9 & 10 Vict. c. 74.

Sect. 23 incorporates the provisions of 8 & 9 Vict. c. respect to the accountability of the officers. See tit. "*C Clauses Act*," *post*. The local board may be the comm (21 & 22 Vict. c. 98, s. 47).

BEERHOUSES, see "*Intoxicating Liquors*."

BETTING HOUSES.

16 & 17 Vict. c. 119.

Warrant to enter Betting Houses.] By 16 & 17 Vict. c. 1 Act for the Suppression of Betting Houses," s. 11, it is ena shall be lawful for any justice of the peace, upon complai before him on oath that there is reason to suspect any hous room, or place to be kept or used as a betting house or offi

o this act, to give authority by special warrant under his 16 & 17 Vict. c. 119.
when in his discretion he shall think fit, to any constable or officer, to enter, with such assistance as may be found ary, into such house, office, room, or place, and, if necessary, force for making such entry, whether by breaking open or otherwise, and to arrest, search, and bring before a justice peace all such persons found therein, and to seize all lists, or other documents relating to racing or betting found in ouse or premises;—and any such warrant may be according form given in the first schedule annexed to the before-men- act "to amend the Law concerning Games and Wagers." t, tit. "*Gaming Houses.*" [Form, p. 778, Oke's "*Formulist,*" it.]

BOOKS.

7 Anne, c. 14, s. 10, if any book shall be taken or otherwise 7 Anne, c. 14.
t of any parochial library, any justice may grant a warrant rch for it; and if it shall be found, it shall by order of such be restored to the library. [Form of Order, Oke's "*Formu-* p. 732, 6th edit.]

BOROUGH RATES.

rough and watch rates are levied under the warrant of the or of the borough. Borough rates, by 5 & 6 Will. 4, c. 76, 2; 6 & 7 Will. 4, c. 104, s. 5; 7 Will. 4 & 1 Vict. c. 81, s. 1. ch rates, 2 & 3 Vict. c. 28; 3 & 4 Vict. c. 28. District rates, arrant of two justices, 8 & 9 Vict. c. 110, s. 7.
rough rates in boroughs not within the Municipal Corporations 17 & 18 Vict. c. 71.

BUILDING SOCIETIES.

stices have the same jurisdiction in respect to disputes in 6 & 7 Will. 4, c. 32.
ding societies as they had *previously* to the passing of the ndly Societies Act, 18 & 19 Vict. c. 63, which then transferred jurisdiction in respect to disputes in the latter societies to the nty court, but is again given to the justices (see *post*, tit. riendly *Societies*"). The Building Societies Act, 6 & 7 Will. 4, 2, by sect. 4, provides, that all the provisions of the Friendly ties Act, 10 Geo. 4, c. 56, and also the provisions of the act nding it, 4 & 5 Will. 4, c. 40, "so far as the same or any part eof may be applicable to the purposes of any benefit building ety, and to the framing, certifying, inrolling and altering the s thereof, shall extend and apply to such benefit building ety, and the rules thereof, in such and the same manner as if provisions of the said acts had been herein expressly re-enacted."

6 & 7 Will. 4, c. 32.

The 10 Geo. 4, c. 56, and 4 & 5 Will. 4, c. 40, are repealed 18 & 19 Vict. c. 63, but this repeal does not affect b societies, for the effect of the incorporation of the 10 Geo. 4 and 4 & 5 Will. 4, c. 40, is the same as if these acts had a formed a part of the 6 & 7 Will. 4, c. 32. 23

The following is a reference to the provisions of the B Societies Act :—

For what Purposes Societies may be formed—Rules—Redem Mortgages by Members.] 6 & 7 Will. 4, c. 32, ss. 1, 3, 5, 7 Will. 4, c. 40, s. 4.

Privileges of Societies and Members.] The taking of a bon not to be deemed usurious, 6 & 7 Will. 4, c. 32, s. 2 [th laws were repealed, however, in 1854 by 17 & 18 Vict. Rules and transfers of shares to be exempt from stamp duty Will. 4, c. 32, s. 8); but not mortgages made after 10th 1870, except mortgages by members for securing repaymen society of not exceeding 500*l.* (33 & 34 Vict. c. 97, s. 112).

Investment of Funds.] Not with the commissioners for duction of the national debt, 6 & 7 Will. 4, c. 32, s. 6.

The provisions of the earlier acts relating to friendly which apply to building societies are :—

How Rules made and inrolled.] See ss. 1, 3, 7, of 6 & 7 c. 32, and 4 & 5 Will. 4, c. 40, s. 4.

Members obtaining Money by Fraud.] See 10 Geo. 4, c. 5 tit. "*Building Societies,*" Vol. I. pp. 324, 325.

Where Disputes directed by Rules to be referred to Arbitrati either Party does not conform thereto.] See 10 Geo. 4, c. 5 which authorizes two justices to enforce the award by dis the goods of the party or society. See *Reg.* v. *Grant*, 19 L. J. M. C. 59.

Where Disputes referred by Rules to Justices.] 10 Geo. 4 s. 28, provides, that, on refusal by a member or officer to with the rules, two justices may determine the complaint ac to the rules, and if a sum ordered, to be levied by distres *Hammond* v. *Bendyshe* 18 L. J. (N. S.) M. C. 219.

Where Society neglected to appoint Arbitrators within Fort after Application, or the Arbitrators have not made any A Two justices on complaint of member may determine the m dispute in the same manner as if the rules had directed disp be referred to justices (4 & 5 Will. 4, c. 40, s. 7).

Where Member expelled.] Where a member is expelled, a

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23 See *R.* v. *Stock*, 8 Ad. & E. 405; *R.* v. *Merionethshire*, 6 Q. 13 L. J. (N. S.) M. C. 158; *R.* v. *Breconshire*, 18 L. J. (N. S.) M. *Walker* v. *Giles*, 18 L. J. (N. S.) C. P. 323; *Pearson* v. *Local* *Health of Kingston-upon-Hull*, 35 L. J. (N. S.) M. C. 36; 13 N. S. 180.

order him to be reinstated, the justices may order, in of reinstatement, the payment of a sum of money to the :, to be recovered by distress (4 & 5 Will. 4, c. 40, s. 8). See *ed* v. *Bendyshe, supra.* 6 & 7 Will. 4, c. 32.

BURIAL BOARDS.

ıcts are, 15 & 16 Vict. c. 85; 16 & 17 Vict. c. 134; 17 & 18 87; 18 & 19 Vict. cc. 78, 128; 20 & 21 Vict. c. 81; 22 Vict. l & 22 Vict. c. 98, s. 49; 23 & 24 Vict. c. 64; 25 & 26 Vict. and 34 & 35 Vict. c. 33. [Forms for the use of Vestries, &c., —735, Oke's "*Formulist*," 6th edit.]

E DISEASES AND CATTLE PLAGUE. See tit. "*Sheep and Cattle*," *post.*

CATTLE AND SHEEP. See "*Sheep and Cattle.*"

ers of Dogs liable for Injuries to Cattle and Sheep.] By 28 & 29 . 60, s. 1, "The owner of every dog shall be liable in damages ury done to any cattle or sheep by his dog; 24—and it shall necessary for the party seeking such damages to show a us mischievous propensity in such dog, or the owner's know- f such previous propensity, or that the injury was attributable lect on the part of such owner. Such damages shall be rable in any court of competent jurisdiction by the owner of attle or sheep killed or injured. Where the amount of the ee claimed shall not exceed *five pounds*, the same shall be rable in a summary way before any justice or justices sitting y sessions under the provisions of the act 11 & 12 Vict. c. 43," on a complaint made within six calendar months (Id. s. 11, p. 135). An order for payment will, if proved, be made under Id. p. 192), and the amount adjudged recovered by distress Id. p. 225); in default imprisonment for not exceeding three lar months unless sooner paid, with the costs (s. 22, Id. p. 228). s, Nos. 1—4, p. 735, Oke's "*Formulist*," 6th edit.] 28 & 29 Vict. c. 60.

Definition of "Owner" of Dog—Definition of "Cattle."] By sect. 2, occupier of any house or premises where any dog was kept or per- to live or remain at the time of such injury shall be deemed to be ner of such dog, and shall be liable as such, unless the said occu- n prove that he was not the owner of such dog at the time the complained of was committed, and that such dog was kept or tted to live or remain in the said house or premises without his m or knowledge:—provided always, that where there are more ers than one in any house or premises let in separate apartments gings or otherwise, the occupier of that particular part of the pre- in which such dog shall have been kept or permitted to live or n at the time of such injury shall be deemed to be the owner of dog." In *Wright* v. *Pearson* (38 L. J. (N. S.) M. C. 312; 20 Law T., 849), it was decided, that the term "cattle" includes horses.

28 & 29 Vict. c. 60.

Protection from stray Dogs.] See 34 & 35 Vict. c. 56, p
"*Dogs.*"

CEMETERIES.

10 & 11 Vict. c. 65.

"The Cemeteries Clauses Act, 1847," 10 & 11 Vict. c.
extent of which is shown in *Note* **70**, Vol. I. p. 330, prov
various matters being heard and determined before justices

The mode of determining questions of compensation wit
to lands taken or purchased, is to be the same as under t
Vict. c. 18, tit. "*Lands Clauses Act,*" *post* (s. 6).

Corrections of errors and omissions in schedule to specia
two justices (s. 7).

Certain provisions of "The Waterworks Clauses Act,
10 & 11 Vict. c. 17, with reference to breaking up streets fo
down pipes, are by sect. 19, incorporated. See that title,
31, 34).

Damages and penalties, and the determination of matter
be recovered and determined as under the 8 & 9 Vict. c. 20
See tit. "*Railways,*" *post.*

CHALLENGE, see *ante*, p. 1156, *post*, tit. "*Prize Figh*

CHURCH RATES.

31 & 32 Vict. c. 109.

"The Compulsory Church Rate Abolition Act, 1868,"
Vict. c. 109, passed on the 31st July, 1868, having, as
imports, ["An Act for the Abolition of Compulsory Church
provided that hereafter no proceeding shall be taken before
to enforce the payment of church rates (s. 1), except where
is made under a local act and levied partly for ecclesiasti
poses (s. 2), or where money is due on the security of su
(s. 3). The law as to and the mode of recovering chur
(which appeared in this place in former editions) have been
from this edition, as they will not be of any further use, u
be in the recovery of rates already made (s. 4). The act b
important one, we give it entire.

It recites that "church rates have for some years ceas
made or collected in many parishes by reason of the op
thereto, and in many other parishes where church rates ha
made the levying thereof has given rise to litigation and ill-
And whereas it is expedient that the power to compel pay
church rates by any legal process shall be abolished:" a
enacts as follows:

Compulsory Church Rates abolished.] Sect. 1. "From and
passing of this act no suit shall be instituted or proceeding
any ecclesiastical or other court, or before any justice or ma

rce or compel the payment of any church rate made in any 25 or place in England or Wales." 31 & 32 Vict. c. 109.

g of Rates called Church Rates, but applicable to secular Pur-

Sect. 2. "Where in pursuance of any general or local act te may be made and levied which is applicable partly to eccle- l purposes 25 and partly to other purposes, such rate shall be levied, and applied for such last-mentioned purposes only, and as it is applicable to such purposes shall be deemed to be a te rate, and not a church rate, and shall not be affected by t. Where in pursuance of any act of parliament a mixed arising partly from rates affected by this act and partly from ources, is directed to be applied to purposes some of which lesiastical purposes, the portion of such fund which is derived such other sources shall be henceforth primarily applicable h of the said purposes as are ecclesiastical."

rision where Money is due on Security of such Rates.] Sect. 3. ny parish where a sum of money is at the time of the passing of t due on the security of church rates, or of rates in the nature rch rates, to be made or levied in such parish under the pro- s of any act of parliament, or where any money in the name of h rate is ordered to be raised under any such provisions, such may still be made and levied, and the payment thereof enforced ocess of law, pursuant to such provisions, for the purpose of g off the money so due, or paying the money so ordered to be l, and the costs incidental thereto, but not otherwise, until the shall have been liquidated:—provided, that the accounts of the hwardens of such parish in reference to the receipt and expen- e of the monies levied under such acts shall be audited annually e auditor of the poor law union within whose district such parish l be situate, unless another mode of audit is provided by act of ament."

rision as to Church Rates already made.] Sect. 4. "Any church or rate in the nature of church rate, made at any time before passing of this act, may be collected and recovered in the same as if this act had not been passed."

t to affect Enactments in Local Acts, &c. where Rates are made Purposes herein named.] Sect. 5. "This act shall not affect enactment in any private or local act of parliament under the hority of which church rates may be made or levied in lieu of, or

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§ *Definition of "Ecclesiastical Purposes," "Church Rate," and "Parish."*] sect. 10, in this act "ecclesiastical purposes" shall mean the building, uilding, enlargement, and repair of any church or chapel, and any pose to which by common or ecclesiastical law a church rate is appli- le, or any of such purposes. "Church rate" shall mean any rate for lesiastical purposes as hereinbefore defined. "Parish" shall mean y parish, ecclesiastical district, chapelry, or place within the limits of ich any person has the exclusive cure of souls.

31 & 32 Vict. c. 109.

in consideration of the extinguishment or of the approp any other purpose of, any tithes, customary payments property or charge upon property, which tithes, payments or charge previously to the passing of such act, had be priated by law to ecclesiastical purposes as defined by this consideration of the abolition of tithes in any place, or contract made, or for good or valuable consideration g every such enactment shall continue in force in the same if this act had not been passed."

Act not to affect Vestries, &c.] Sect. 6. "This act shall vestries, or the making, assessing, receiving or otherwise with any church rate, save in so far as relates to the thereof; but subject to the provisions hereinbefore containe soever any ecclesiastical district having within its limits crated church in use for the purposes of divine worship sl been legally constituted out of any parish or parishes, and such district shall or shall not be a separate and distinct pa inhabitants of such district shall not be entitled to vote f reference to a church rate or the expenditure thereof at an meeting of the parish or parishes out of which the said di formed, nor shall they be assessed to any rate made in rel the parish church or the said parish or parishes, but such inh may assemble in vestry, and, subject to the provisions of t may make and assess a rate in relation to the church of the district in like manner as if such church were the church ancient parish:—provided that nothing in this act containe affect any right of burial to which the inhabitants of the may be entitled in the churchyard of the mother church."

Trustees and Others under Incapacity may subscribe to Vol Rate.] Sect. 7. "It shall be lawful for all bodies corporate, tr guardians, and committees who or whose cestuis que trust are occupation of any lands, houses, or tenements, to pay, if they fit, any church rate made in respect of such property, althou payment of the same may not be enforceable after the pass this act, and the same shall be allowed to them in any accou be rendered by them respectively."

Regulations as to Persons refusing to pay Church Rates.] S "No person who makes default in paying the amount of a ch rate for which he is rated shall be entitled to inquire into, or to, or vote in respect to the expenditure of the monies arising such church rate; and if the occupier of any premises shall default for one month after demand in payment of any church for which he is rated, the owner shall be entitled to pay the s and shall thereupon be entitled, until the next succeeding ch rate is made, to stand for all purposes relating to church

ng the attending at vestries and voting thereat) in the place 31 & 32 Vict.
such occupier would have stood." c. 109.

to appoint Church Trustees.] Sect. 9. "A body of trustees may
nted in any parish for the purpose of accepting, by bequest,
contract, or otherwise, and of holding any contributions
may be given to them for ecclesiastical purposes in the
The trustees shall consist of the incumbent and of two
lders or owners or occupiers of land in the parish, to be
in the first instance, and also from time to time on any
in the office by death, incapacity, or resignation, one by
on, and the other by the bishop of the diocese in which the
situate. The trustees shall be a body corporate by the
the church trustees of the parish to which they belong,
a perpetual succession and a common seal, with power to
be sued in their corporate name. The trustees may, from
time, as circumstances may require, pay over to the church-
s, to be applied by them either to the general ecclesiastical
s of the parish, or to any specific ecclesiastical purposes of
ish, any funds in their hands, and the funds so paid over may
ied to such purposes, and shall not be applied to any other
e:—provided always, that no power shall be thereby conferred
churchwardens to take order with regard to the ecclesiastical
es of the parish further or otherwise than they are now by
titled to do;—provided also, that due regard shall be had
directions of the donors of funds contributed for any special
astical purposes; and, subject as aforesaid, the trustees may
in government or real securities any funds in their hands,
cumulate the income thereof, or otherwise deal with such
as they think expedient, subject to the provisions of this
The incumbent shall be the chairman of the trustees. The
s shall once at the least in every year lay before the vestry
ount of their receipts and expenditure during the preceding
and of the mode in which such receipts have been derived
penditure incurred, together with a statement of the amount,
, of funds remaining in their hands at the date of such
nt."

COAST GUARD SERVICE.

19 & 20 Vict. c. 83, s. 8, the statutes in force as to her Majesty's 19 & 20 Vict.
and vessels, and forces by sea, and the acts 10 & 11 Vict. c. 62, c. 83.
6 & 17 Vict. c. 69 (in title "*Navy, Seamen in Her Majesty's,*"
are to apply to such of the coast guard as are borne on the
of any ship belonging to her Majesty's fleet. By sect. 21 of
Naval Coast Volunteers Act, 16 & 17 Vict. c. 73, it is provided
alia), that if "any officer or man of the coast guard, or of any
r Majesty's cruisers, seamen, rigger, or other person required

19 & 20 Vict. c. 83.

to serve" in the navy under that act, shall not appear to actual service or not join the ship when required, he is to to be apprehended and punished in the same manner as pe longing to her Majesty's navy and deserting or improperly themselves from duty.

COIN.

24 & 25 Vict. c. 99.

Settlement of Disputes as to Genuineness of Coin tendered. & 25 Vict. c. 99, s. 26, "Where any coin shall be tendere Queen's current gold or silver coin to any person who shal the same to be diminished otherwise than by reasonable or to be counterfeit, it shall be lawful for such person to cu bend or deface such coin,—and if any coin so cut, broken, defaced shall appear to be diminished otherwise than by re wearing, or to be counterfeit, the person tendering the sa bear the loss thereof;—but if the same shall be of due wei shall appear to be lawful coin, the person cutting, breakin ing or defacing the same is hereby required to receive the the rate it was coined for;—and if any dispute shall arise the coin so cut, broken, bent or defaced be diminished in aforesaid, or counterfeit, it shall be heard and finally determ a summary manner by any justice of the peace, who is here powered to examine upon oath as well the parties as an person, in order to the decision of such dispute [*Vide* Form 3, 4, p. 119, Oke's '*Formulist*,' 6th edit.];—and the tellers receipt of her Majesty's Exchequer, and their deputies and and the receivers general of every branch of her Majesty's re are hereby required to cut, break or deface, or cause to b broken or defaced, every piece of counterfeit or unlawfully nished gold or silver coin which shall be tendered to th payment of any part of her Majesty's revenue."

33 Vict. c. 10.

Settlement of Disputes as to defacing light Gold Coin.] By Coinage Act, 1870," 33 Vict. c. 10, s. 7, "Where any gold c the realm is below the current weight as provided by this a where any coin is called in by any proclamation, every person by himself or others, cut, break, or deface any such coin tende him in payment, and the person tendering the same shall be loss. If any coin cut, broken, or defaced in pursuance of this se is not below the current weight, or has not been called in by proclamation, the person cutting, breaking, or defacing the shall receive the same in payment according to its denomina Any dispute which may arise under this section may be determ by a summary proceeding" [*i. e.*, after a summons under 11 & 12 Vict. c. 43, as provided by sect. 18, Vol. I., p. 340, *Vide* before two justices].

24 & 25 Vict. c. 99.

Search Warrant for counterfeit Coin, Coining Tools, &c.] By

c. 99, s. 27, "If any person shall find or discover in any 24 & 25 Vict. c. 99.
atever, or in the custody or possession of any person having
without lawful authority or excuse, any false or counterfeit
embling or apparently intended to resemble or pass for any
Queen's current gold, silver, or copper coin, or any coin of any
prince, state or country, or any instrument, tool, or engine
ever, adapted and intended for the counterfeiting of any such
any filings or clippings, or any gold or silver bullion, or any
silver in dust, solution, or otherwise, which shall have been
d or obtained by diminishing or lightening any of the Queen's
gold or silver coin, it shall be lawful for the person so finding
vering and he is hereby required to seize the same, and to
e same forthwith before some justice of the peace;—and
it shall be proved, on the oath of a credible witness before
tice of the peace, that there is reasonable cause to suspect
y person has been concerned in counterfeiting the Queen's
gold, silver, or copper coin, or any such foreign or other coin
is act before mentioned; or has in his custody or possession
h false or counterfeit coin, or any instrument, tool, or engine
ever adapted and intended for the making or counterfeiting
such coin, or any other machine used, or intended to be used,
king or counterfeiting any such coin, or any such filings,
gs, or bullion, or any such gold or silver in dust, solution, or
ise as aforesaid, it shall be lawful for any justice of the
, by warrant under his hand, to cause any place whatsoever
ing to or in the occupation or under the control of such sus-
person to be searched, either in the day or in the night, and
such false or counterfeit coin, or any such instrument, tool,
ine, or any such machine, or any such filings, clippings, or
n, or any such gold or silver in dust, solution, or otherwise,
resaid, shall be found in any place so searched, to cause the
to be seized and carried forthwith before some justice of the
;—and whensoever any such false or counterfeit coin, or any
instrument, tool or engine, or any such machine, or any such
s, clippings, or bullion, or any such gold or silver in dust, solu-
er otherwise as aforesaid, shall in any case whatsoever be seized
arried before any justice of the peace, he shall, if necessary,
the same to be secured for the purpose of being produced in
nce against any person who may be prosecuted for any offence
st this act [see Offences in tit. '*Coin*,' *ante*, pp. 1052—1058];
all such false and counterfeit coin, and all instruments, tools,
engines adapted and intended for the making or counterfeiting
in, and all such machines, and all such filings, clippings, and
ion, and all such gold and silver in dust, solution, or otherwise
aforesaid, after they shall have been produced in evidence, or
they shall have been seized, and shall not be required to be

24 & 25 Vict. c. 99.

produced in evidence, shall forthwith be delivered up t of her Majesty's mint, or to the solicitors of her Majest or to any person authorized by them to receive the sam of Information and Warrant, Nos. 116, 117, Oke's " 6th edit. pp. 531, 532.

COMMISSIONERS (PUBLIC).

10 & 11 Vict. c. 16.

"The Commissioners Clauses Act, 1847," 10 & 11 Vi extent of which is shown in *Note* **65**, Vol. I. p. 341, various matters being heard and determined before just

A summary remedy before two or more justices ag tors, or other officers of the commissioners failing to a deliver up documents, &c. (ss. 70, 71, 72, 73).

Two justices may appoint a receiver on arrear of mortgages (s. 87).

Two justices may settle amount of remuneration t auditors of accounts, in case of dispute (s. 92).

COMPANIES CLAUSES ACT.[26]

8 & 9 Vict. c. 16.

Appointment of Receiver of Tolls.] On arrear of p interest due to mortgagee of the company after demand c. 16, s. 53), and on application of mortgagee, two just order in writing, after hearing the parties, appoint a re whole or a competent part of the tolls or sums liable to of the money, to act till the same be paid off (s. 54).

Certificate of Capital.] Upon production of the books pany, and of such other evidence as he shall think su justice may grant a certificate that a definite portion o has been subscribed or paid up, before borrowing m [Forms of Affidavit in Proof of Facts and Certificat pp. 336, 337, Oke's "*Formulist*," 6th edit.]

Officers of Company not accounting, &c.] By sect. employed by the company are, when required, to m

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26 This act of 8 & 9 Vict. c. 16, is "The Companies Cla dation Act, 1845," which applies to "every joint-stock co shall by any act which shall thereafter [8th May, 1845] be corporated for the purpose of carrying on any undertaking shall be incorporated with such act" (s. 1). By sect. 3, th tice" is to mean a justice of the peace for the county, & matter requiring the cognizance of any such justice shall a shall not be interested in the matter [see *Wakefield Local B* v. *W. R. and Grimsby Railway Co.*, 35 L. J. (N. S.) M. C. expression "two justices" is to be understood to mean assembled and acting together in petty sessions. The act i rated with the Lands Clauses or Railways Clauses Acts, 184 c. 18; 8 & 9 Vict. c. 20. The act has been amended in within this work by 26 & 27 Vict. c. 118, and 32 & 33 Vict.

to the directors, &c., accounts of money received and had, 8 & 9 Vict.
d disposed of, with the vouchers, and pay the balance thereon. c. 16.
111, if any such officer fail to render account, or to produce
iver up the vouchers and receipts relating to the same in his
on or power, or to pay the balance thereof when required,—
r three days after required he fail to deliver up to the direc-
to any person appointed by them to receive the same, all
and writings, property, effects, matters and things in his
ion or power, relating to the execution of this or the special
any act incorporated therewith, or belonging to the company,
, on complaint thereof being made to a justice, such justice
mmon such officer to appear before two or more justices, to
such charge;—and upon the appearance of such officer, or
absence upon proof that the summons was personally served
im, or left at his last known place of abode, such justices may
d determine the matter, and adjust and declare the balance
by such officer;—and if it appear, either upon confession
officer or upon evidence, or upon inspection of the account,
y moneys of the company are in the hands of such officer, or
by him to the company, such justices may order such officer
the same;—and if he fail to pay the amount, such justices
nt a warrant to levy the same by distress, or, in default
, to commit the offender to gaol, there to remain without
not exceeding three [calendar, s. 3] months, unless sooner
By sect. 112, if any such officer refuse to make out such
t in writing, or to produce and deliver to the justices the
l vouchers and receipts relating thereto, or to deliver up any
, &c. in his possession or power, belonging to the company,
ustices may lawfully commit such offender to gaol, there to
a until he shall have delivered up all the vouchers and receipts,
, in his possession or power, relating to such accounts, and
delivered up all books, &c., if any, belonging to the company.
ct. 113, a warrant may be granted in the first instance by a
e, if a director or other person on behalf of the company shall
oath that he believes it is the intention of the officer to
nd.

nages.] Damages, costs, or expenses not otherwise provided
to be ascertained by and recovered before two justices, by
ss. seven days after demand (ss. 142, 143, 144, 150).

peal.] An appeal is given against any determination or ad-
ation of a "penalty or forfeiture" by sect. 159, *Note* 401,
I. p. 723.

ncellation of Forfeited Shares.] Declaration to be made before
tice (s. 5).

ppointment of Receiver.] By two justices (s. 26).

CONSTABLES (IN GENERAL).

18 Geo. 3, c. 19.

Accounts against Parishes.] By 18 Geo. 3, c. 19, s. are to deliver to the overseers every three months, and teen days after going out of office, an account of mo by them or received on account of their respective pari account be allowed at a meeting of the inhabitants, be paid out of the poor rates; if disallowed, a justice (the constable giving notice to the overseers to attend) determination an appeal lies to the quarter sessions "*Formulist*," 6th edit. p. 738]; but there appears no r justices for recovering the amount allowed, as no or Fees paid by the constables (whether appointed unde Police Acts or not) to justices' clerks on proceed vagrants are money expended by them on account (*Reg.* v. *Chelmsford*, 12 L. J. (N.S.) M. C. 139; 5 Ad. & and an order may be made for them under this act a 5 & 6 Vict. c. 109, s. 17 (*Overseers of Neithorp* v. *Justice* 9 Law T., N, S. 383). The amount cannot be disall poor law auditor (11 & 12 Vict. c. 91, s. 6).

CONSTABLES (SPECIAL).

1 & 2 Will. 4, c. 41.

The act relating to special constables is the 1 & 2 V passed 15th October, 1831, which was amended in o only by the 5 & 6 Will. 4, c. 43. It will be seen that matters here mentioned must take place in "Special S whole of the provisions of the act being placed in thi convenience of having them at one view.

Appointment of Special Constables generally.] By 1 c. 41, s. 1, "in all cases where it shall be made to a two or more justices of the peace of any county, ridin having a separate commission of the peace, or to any justices of the peace of any liberty, franchise, city England or Wales, upon the oath of any credible witn tumult, riot or felony has taken place or may be reaso hended in any parish, township, or place situate withir or limits for which the said respective justices usually justices shall be of opinion that the ordinary officers preserving the peace are not sufficient for the preser peace, and for the protection of the inhabitants and th the property in any such parish, township or place then and in every such case such justices,—or any two tices acting for the same division or limits,—are hereb to nominate and appoint, by precept in writing under so many as they shall think fit of the householders or (not legally exempt from serving the office of constable

ish, township or place as aforesaid, or in the neighbourhood or not so residing, if willing to act, 5 & 6 Will. 4, c. 43, s. 1], 1 & 2 Will. 4, c. 41.
; special constables, *for such time* and in such manner as to justices respectively shall seem fit and necessary, for the tion of the public peace, and for the protection of the in-ts, and the security of the property in such parish, township ;

l the justices of the peace who shall appoint any special con-by virtue of this act, or any one of them, or any other justice eace, acting for the same division or limits, are and is hereby red to administer to every person so appointed the following tion [31 & 32 Vict. c. 72. s. 12, sub-s. 4; that is to say,—

A. B., do solemnly and sincerely declare, that I will well and rve our sovereign [lady the Queen] in the office of special con-or the parish [*or* township] of —— without favour or affection, r ill-will; and that I will to the best of my power cause the o be kept and preserved, and prevent all offences against the and properties of [her] Majesty's subjects; and that while I con-hold the said office I will to the best of my skill and knowledge ge all the duties thereof faithfully according to law.'

ovided always, that whenever it shall be deemed necessary minate and appoint such special constables as aforesaid of such nomination and appointment, and of the circum-s which have rendered such nomination and appointment ient, shall be forthwith transmitted by the justices making nomination and appointment to one of his Majesty's prin-secretaries of state and to the lieutenant of the county." ons refusing to take the declaration [31 & 32 Vict. c. 72, sub-s. 4] of office, or to appear at place summoned to take e penalty to Offences 21, 22, Vol. I. p. 358.]

rms of Deposition to ground Appointment, Precepts appoint-Constables, Summons to attend and be Sworn, Certificates of intment and of Oath taken, and Notification to Secretary of and Lord Lieutenant, Nos. 1—9, pp. 738—741, Oke's *nualist*," 6th edit.]

e persons so appointed and sworn to act continue in office until appointment is suspended or determined, if no time be limited he precept by which they are appointed (see *Reg.* v. *Porter*, r. & P. 778; *R.* v. *Best*, 16 L. J. (N. S.) M. C. 102).

ppointments under Order of Secretary of State.] By sect. 2, "in case in which any number of the householders, or other persons legally exempt from serving the office of constable [for which 5 & 6 Vict. c. 109, s. 6], shall have been appointed by the tices in manner aforesaid to act as special constables for any h parish, township or place as aforesaid, it shall be lawful for r one of his Majesty's principal secretaries of state, on the resentation of any two justices of the peace, to order that the

1 & 2 Will. 4, c. 41.

persons exempt by law from serving as special consta
parish, township or place, or the neighbourhood th
notwithstanding such exemption, be appointed and sw
as special constables as if they were not by law exempt
persons shall accordingly be appointed and sworn in m
said, and shall be liable to act for two calendar months
sect. 3, "it shall be lawful for any of his Majesty
secretaries of state to give direction to the lieutenant o
to cause special constables to be appointed and sworn
aforesaid throughout the whole of such county or
thereof, whether a hundred or hundreds, parish or pari
other known division or divisions, of whatever size or de
and to signify, if such secretary of state shall see fit, th
shall be excused from being so appointed and sworn
of any exemption; provided always, that the person
and sworn in, whether having cause of exemption or no
be called upon to act for three calendar months."

Powers of Constables.] By sect. 5, "every special c
pointed under this act shall, not only within the parish,
place for which he shall have been appointed, but also th
entire jurisdiction of the justices so appointing him, h
and enjoy all such powers, authorities, advantages and
and be liable to all such duties and responsibilities as a
duly appointed now has within his constablewick by
common law of this realm, or of any statute or statutes."
"where any special constables appointed under this
serving within any county, and two or more justices
of any adjoining county shall make it appear to the
of any two or more justices of the peace acting for th
limits wherein such special constables are serving, tha
ordinary circumstances exist which would render it ex
the said special constables should act in such adjoining
and in every such case the said last-mentioned justice
authorized (if they shall think fit) to order all or any
special constables to act in such adjoining county in
as to the said last-mentioned justices shall seem meet;
such special constable, during the time that he sha
such adjoining county, shall have, exercise and enj
powers, authorities, advantages and immunities, and
all such duties and responsibilities as if he were actin
parish, township or place for which he was originally

Regulations for organizing Constables or removing them duct, &c.] By sect. 4, "the justices of the peace wh
appointed any special constables under this act, or
them,—or the justices acting for the division or l
which such special constables shall have been calle

session of such last-mentioned justices, or the major part 1 & 2 Will. 4, c. 41.
last-mentioned justices at such special session,—shall have to make such orders and regulations as may from time to e necessary and expedient for rendering such special con- more efficient for the preservation of the public peace,— efusing to serve or disobeying such orders, &c., see Offence I. p. 358]—and shall also have power to remove any such constable from his office for any misconduct or neglect of erein." By sect. 14, "the justices of the peace assembled special session for any of the purposes mentioned in this all have power to adjourn the same from time to time as hall think proper;" and "every special session which shall een actually holden for any of the purposes mentioned in t shall be deemed and taken to have been legally holden, he contrary shall be proved."

raining Services of Constables—Delivery up of Staves, &c.] ct. 9, "the justices who shall have appointed any special ble under this act are hereby empowered,—or the justices for the division or limits within which such special con- s shall have been called out,—at a special session to be held at purpose [which may be adjourned, see s. 14, *supra*], or the part of such last-mentioned justices at such special session, reby empowered to suspend or determine the services of any of the special constables so called out, as to the said justices tively shall seem meet;—and notice of such suspension or mination of the services of any or all of the said special ables shall be forthwith transmitted by such respective es to one of his Majesty's principal secretaries of state, and to the lieutenant of the county." By sect. 10, "every such al constable shall, within one week after the expiration of his , or after he shall cease to hold and exercise the same pur- t to this act, deliver over to his successor (if any such shall been appointed), or otherwise to such person and at such time place as may be directed by any justice of the peace acting for division or limits within which such special constable may been called out, every staff, weapon, and other article which l have been provided for such special constable under this act." Penalty for omitting or refusing so to do, see Offence 23, Vol. I. 58.]

rotection of Constables.] See sect. 11, Offences 25, 26, Vol. I. 58, for penalty for assaulting or resisting the constables while the execution of their duty. Sect. 19, for the protection of ons acting in the execution of this act, enacts,—"That all ions and prosecutions to be commenced against any person for thing done in pursuance of this act shall be laid and tried in county where the fact was committed, and shall be commenced

1 & 2 Will. 4, c. 41.

within six calendar months after the fact committed, otherwise;—and notice in writing of such cause of action given to the defendant one calendar month at least before mencement of the action;—and in any such action the d may plead the general issue, and give this act and th matter in evidence, at any trial to be had thereupon;- plaintiff shall recover in any such action if tender of amends shall have been made before such action brought sufficient sum of money shall have been paid into court, a action brought, by or on behalf of the defendant; and if shall pass for the defendant, or the plaintiff shall become or discontinue any such action after issue joined, or if, u murrer or otherwise, judgment shall be given against the the defendant shall recover his full costs as between attor client, and have the like remedy for the same as any de hath by law in other cases;—and though a verdict shall b for the plaintiff in any such action, such plaintiff shall n costs against the defendant unless the judge before whom shall be shall certify his approbation of the action and verdict obtained thereupon."

Expenses of Constables—Justices' Clerks' Fees.] By sect. 1 justices of the peace acting for the division or limits 27 which any such special constables shall have been called serve at a special session to be held for that purpose, or the part of the justices at such special session, are hereby emp to order from time to time such reasonable allowances fo trouble, loss of time, and expenses, to be paid to such constables who shall have so served or be then serving, as said justices or such major part of them shall seem proper the said justices or such major part of them may also ord payment of such expenses as may have been incurred in pro staves or other necessary articles for such special constables; the said justices so ordering, if justices for any county, ridi division having a separate commission of the peace, or if ju for any liberty, franchise, city or town which shall be contrib to the public rate for any county, riding or division, shall every order for the payment of such allowances and expenses the treasurer of such county, riding or division, who is h required to ay the same out of any public money which shall be in his hands, and the said treasurer shall be allowed all

27 The order may be made by justices at a special sessions in and petty sessional division of a county by whom special constables had appointed, and need not be made at a special sessions for the w county, riding, or division, or at qnarter sessions (*Reg.* v. *Justices of M lebone*, 37 L. J. (N. S.) M. C. 181; *S. C. Reg.* v. *Justices of Middlesex* Law T., N. S. 680.

nts in his accounts 28;—and where the justices of the peace 1 & 2 Will. 4, c. 41.
ed at such special session are justices for any liberty, ise, city or town which is not contributory to the public rate county, riding or division, but which raises a rate or other fund in the nature of a county rate, in every such case the t-mentioned justices shall make every order for the payment allowances and expenses as aforesaid upon the treasurer or officer having the collection or disbursement of such last-ned rate or fund, who shall forthwith pay every such order such rate or fund, and shall be allowed all such payments accounts." [See *Reg.* v. *Hulton*, 19 L. J. (N. S.) M. C. 32; of Orders, Nos. 1—3, Oke's "*Formulist*," 6th edit. pp. 636, The justices clerks' fees payable in respect of the appoint-if not directed by the table of fees in force in the place to be ut of the local fund, are usually charged to and paid by the bles appointed (from whom it is submitted they might be red, as shown in Vol. I. p. 123), and ordered as part of their ses, as was done in *Reg.* v. *Lord Newborough and others, supra.* to special constables on railways, see 1 & 2 Vict. c. 80, *post, Railways.*"

ONSTABLES FOR COUNTIES. See "*County Police*," *post*, p. 1366.

CONSTABLES (PAROCHIAL).

er for Expenses.] By 5 & 6 Vict. c. 109, s. 17, justices in 5 & 6 Vict. c. 109.
sessions assembled for the division may grant an order on the ers of the parish for the fees payable to the constable or the es' clerk under the allowances settled by the quarter sessions ties performed by them respectively [or to the constables for xecution of any order of a justice made in writing, or for the rmance of any occasional duties, the same being sanctioned and ed by justices in petty sessions assembled (13 & 14 Vict. c. 20, , for which the payment is not by law charged upon the county , and subject to the regulations of the quarter sessions. (The for the constable cannot include sums paid to the justices' s for fees, which should be made under 18 Geo. 3, c. 19, s. 4, p. 1352, *Overseers of Neithorp* v. *Justices of Banbury*, 9 Law T., . 383.) Where the quarter sessions have not prescribed the

In *Reg.* v. *Lord Newborough and others* (38 L. J. (N. S.) M. C. 129; aw T., N. S. 818), where the order made had been obeyed by the urer and the item allowed in his accounts, the Court of Queen's h refused to issue a writ of certiorari for the purpose of quashing order, upon grounds affecting the regularity of the proceedings in ect to the appointment of the constables or the making of the order.

5 & 6 Vict. c. 109.

times of making these orders, it is usual for the constabl parish to deliver his account quarterly to the petty sess obtain an order for the amount. By 11 & 12 Vict. 91, production of the justices' order is sufficient to warrant the when paid, being allowed in the overseer's accounts with ther inquiry. [Form of Order, No. 1, p. 742, Oke's "*Fo* 6th edit.]

Enforcing Orders.] The above-mentioned order cannot be by justices; but, *query*, is the 33 Geo. 3, c. 55, s. 1 (Vol.] Offence 2), which imposes a penalty for disobeying any or justice, applicable?

Dismissal of paid Constable.] A *paid* constable [*i. e.* salary] may be dismissed from his office for misconduc justices of the division in petty sessions assembled (5 & c. 109, s. 19); there is no power either in that act or the Vict. c. 20, s. 1, to discharge an unpaid constable appoint the statute; but probably justices may do so under the law. [Forms, Nos. 2—4, p. 742, Oke's "*Formulist*," 6th e

CONSTABLES (*under Lighting and Watching Act*). See "*Lighting and Watching*," *post*.

CONSTABLES (BOROUGH).

5 & 6 Will. 4, c. 76.

Appointment.] The constables are appointed by the wat mittee, and are to [make a declaration of office, 31 & 32 Vic s. 12, sub-s. 4], before some justice of the borough (5 & 6 c. 76, s. 76). [Form of Certificate, Oke's "*Formulist*," 6 p. 743.] That committee or any two borough justices may or dismiss them (s. 77). See also 22 & 23 Vict. c. 32, s. 26.

Where they can act.] See sect. 76; and 22 & 23 Vict. c. 3

May take Bail in certain Cases.] Sects. 78, 79.

Consolidation with Counties.] 3 & 4 Vict. c. 88, s. 14; 19 & c. 69, ss. 5, 20.

Watch Rates.] See p. 1341, and 22 & 23 Vict. c. 32, ss. 5,

Pay and Fees.] 5 & 6 Will. 4, c. 76, s. 82; 22 & 23 Vic s. 11.

Gratuities to Constables and their Widows.] 22 & 23 Vict ss. 10, 20, 24.

Superannuation Fund and Allowances.] 22 & 33 Vict. c. 3 —13, 15, 16, 17, 19, 21; 28 Vict. c. 35, ss. 4, 5.

CONSTABLES (*on Navigable Rivers and Canals*).

3 & 4 Vict. c. 50.

Appointment.] By 3 & 4 Vict. c. 50, s. 2, two justices peace, or the watch committee of any incorporated borough,

respective jurisdictions, may, upon the application of the com- 3 & 4 Vict.
: or board of directors of any canal or navigable river, or of c. 50.
clerk or agent, appoint so many persons as they shall think fit among those who shall be recommended to them for that se by such directors, clerk or agent, to act as constables on long such canal or river (s. 1); and may dismiss any person so ated. [Forms of Oath and Certificate thereof (which may be d to a declaration, 31 & 32 Vict. c. 72, s. 12, sub-s. 4), Oke's *nalist*," 6th edit. p. 743.]

NTAGIOUS DISEASES AT NAVAL AND MILITARY STATIONS.

e Contagious Diseases Acts, 1866 and 1869, apply to Aldershot 29 Vict. c. 35;
other places stated in *Note* 99, Vol. I. p. 368, the last act 32 & 33 Vict.
ling and amending the 29 Vict. c. 35, in various particulars. c. 96.
following are the principal provisions now in force:—

penses of Execution of Acts.] 29 Vict. c. 35, s. 5.

pointment of Visiting Surgeons and Assistants.] Id. s. 6.

pection of Hospitals.] Id. s. 7.

rified Hospitals.] Id. ss. 8—14.

tice by Justice to Woman being a Common Prostitute.] The 32 Vict. c. 96, s. 4, repeals sect. 15 of 29 Vict. c. 35, and enacts, here an information on oath is laid before a justice 29 by a rintendent of police, charging to the effect that the informant good cause to believe that a woman therein named is a common titute, and either is resident within the limits of any place to h this act applies, or, being resident within ten miles of those ts, or having no settled place of abode, has, within fourteen days re the laying of the information, either been within those limits the purpose of prostitution, or been outside of those limits for purposes of prostitution in the company of men resident within e limits, the justice may, if he thinks fit, issue a notice thereof ressed to such woman, which notice the superintendent of police l cause to be served on her: provided that nothing in the tagious Diseases Acts, 1866 to 1869, shall extend, in the case of which, to any woman who is not resident within the limits cified in the first schedule to this act."

Power to Justice to order Periodical Medical Examination.] By Vict. c. 35, s. 16, "in either of the following cases, namely:—

(1.) If the woman on whom such a notice is served appears herself, or by some person on her behalf, at the time and place

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29 By 29 Vict. c. 35, s. 2 (*inter alia*), the term "justice" means a tice of the peace having jurisdiction in the county, borough or place ere the matter requiring the cognizance of a justice arises, or in any rt of any place to which the acts apply.

29 Vict. c. 35; 32 & 33 Vict. c. 96.

appointed in the notice, or at some other time a
appointed by adjournment:

(2.) If she does not so appear, and it is shown (on oath
justice present that the notice was served on her a
able time before the time appointed for her appear
that reasonable notice of such adjournment was
her (as the case may be):

the justice present, 30 on oath being made before him su
ating the matter of the information to his satisfaction, ma
thinks fit, order such woman to be subject to a periodical e
tion by the visiting surgeon for any period not exceeding o
for the purpose of ascertaining at the time of each such e
tion whether she is affected with a contagious disease; 3
thereupon she shall be subject to such a periodical medical ex
tion, and the order shall be a sufficient warrant for the
surgeon to conduct such examination accordingly. The ord
specify the time and place at which the woman shall attend
first examination. The superintendent of police shall cause
of the order to be served on the woman." By 32 & 33 Vict.
s. 5, "any order for subjecting a woman to periodical m
examination shall be in operation and enforceable as long
whenever such woman is resident within ten miles of the lim
the place where the order was made, instead of within five
as prescribed by sect. 32 of the 29 Vict. c. 35."

Voluntary Submission by Woman.] Sect. 17. "Any woman
place to which this act applies, may voluntarily, by a submiss
writing signed by her in the presence of and attested by the su
tendent of police, subject herself to a periodical medical examin
under this act for any period not exceeding one year." By 3
Vict. c. 96, s. 6, "where any woman in pursuance of the pri
act, voluntarily subjects herself by submission in writing
periodical medical examination under that act, such submi
shall, for all the purposes of the Contagious Diseases Acts, 18
1869, have the same effect as an order of a justice subjecting
woman to examination;—and all the provisions of the 29
c. 35, respecting the attendance of the woman for examination,

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30 By 29 Vict. c. 35, s. 37, the procedure is to be under the 11
Vict. c. 43, "as far as those provisions respectively are not inconsi
with any provision of this act, and save that the room or place in whi
justice sits to inquire into the truth of the statements contained in
information or application under this act against or by a woman shall
unless the woman so desires, be deemed an open court for that purpo
and, unless the woman otherwise desires, the justice may, in his di
tion, order that no person have access to or be or remain in that r
without his consent or permission.

31 By 29 Vict. c. 35, s. 2 (*inter alia*), the term "contagious disea
means venereal disease, including gonorrhœa.

29 Vict. c. 35; 32 & 33 Vict. c. 96.

senting herself to avoid examination, and her refusing or y neglecting to submit herself for examination, and the f the order subjecting her to examination after imprisonment th absence, refusal, or neglect, shall apply and be construed lingly." [See Offence 1, under s. 28, Vol. I. p. 368.]

porary Detention of Women by Surgeon.] By 32 & 33 Vict. s. 3, "Any woman who, on attending for examination or examined by the visiting surgeon, is found by him to be in condition that he cannot properly examine her, shall if such n has reasonable grounds for believing that she is affected contagious disease, be liable to be detained in a certified al, subject and according to the provisions of the Contagious ses Acts, 1866 to 1869, until the visiting surgeon can pro- examine her, so that she be not so detained for a period ding five days. The visiting surgeon shall sign a certificate effect that she was in such a condition that he could not rly examine her, and that he has reasonable grounds to e that she is affected with a contagious disease, and shall therein the certified hospital in which she is to be placed;— uch certificate shall be signed and otherwise dealt with in the manner, and have the same effect, except as regards duration, certificate under the principal act. If the reason that the ng surgeon cannot examine the woman is that she is drunk, ay be detained upon an order of the visiting surgeon for a d not exceeding twenty-four hours in any place named in the where persons accused of being drunk and disorderly or of ces punishable summarily are usually detained,—and the r or the keeper of such place shall upon the receipt of such receive and detain the woman accordingly."

tention in Hospital.] Various provisions are contained in the ict. c. 35, viz.:—sect. 18, power of admiralty or secretary of for war to make regulations as to examinations;—sect. 19, ing surgeon to prescribe times, &c.;—sect. 20, certificate of ing surgeon for detention in hospital, where she is to be de- ed until discharged by the chief medical officer (s. 22); and the ector of certified hospitals may transfer her to another such ital (s. 23). By sect. 21, "Any woman to whom any such ificate of the visiting surgeon relates may, if she thinks fit, ed to the certified hospital named in that certificate, and place elf there for medical treatment, but if after the certificate is vered to her she neglects or refuses to do so, the superintendent olice, or a constable acting under his orders, shall apprehend , and convey her with all practicable speed to that hospital, and e her there for medical treatment,—and the certificate of the ting surgeon shall be a sufficient authority to him for so doing."

Duration of Detention.] By sect. 24, "Provided always, that any

29 Vict. c. 35; 32 & 33 Vict. c. 96.

woman shall not be detained under any one certificate fo time than three months, unless the chief medical offic hospital in which she is detained, and the inspector o hospitals, or the visiting surgeon for the place whence sh was brought, conjointly certify that her further dete medical treatment is requisite (which certificate shall be cate, and one of the originals thereof shall be deliver woman);—and in that case she may be further detain hospital in which she is at the expiration of the said perio months by the chief medical officer until discharged b writing under his hand;—but so that any woman be no under any one certificate for a longer time in the whol months." By 32 & 33 Vict. c. 96, s. 7, "A woman detained for a further period not exceeding three months tion to the six months allowed under section twenty-fo 29 Vict. c. 35, if such certificate as is required by that s the effect that her further detention for medical treatment site) is given at the expiration of such six months;—so, less, that any woman be not detained under one certific longer time in the whole than nine months."

Woman may apply to a Justice for her Discharge.] By c. 35, s. 25, "If any woman detained in any hospital herself entitled to be discharged therefrom, and the chief officer of the hospital refuses to discharge her, such wom on her request be conveyed before a justice, who, if he is upon reasonable evidence that she is free from a contagious shall discharge her from such hospital,—and such order charge shall have the same effect as the discharge of t medical officer." By sect. 27, the woman, if she so desires, sent to her residence, without expense to herself, on her di

Effect of Order of Imprisonment for Absence, quitting Hosp See 29 Vict. c. 35, ss. 29, 30. By 32 & 33 Vict. c. 96, s. 8, an order is made discharging a woman from any hospital, a certificate is given, under section thirty of the 29 Vict, c. a woman is free from a contagious disease, such order and cate shall be delivered to the superintendent of police, and by him."

Relief from Examination on Application to a Justice.] By c. 35, s. 33, "If any woman subjected to a periodical medical nation under this act (either on her own submission or un order of a justice), desiring to be relieved therefrom, and no under detention in a certified hospital, makes application in in that behalf to a justice, the justice shall appoint by notice ing a time and place for the hearing of the application, and sha the notice to be delivered to the applicant, and a copy of the a tion and of the notice to be delivered to the superintendent of

. 34, "If on the hearing of the application it is shown, to 29 Vict. c. 35; 32 & 33 Vict. c. 96.
faction of a justice, that the applicant has ceased to be a
n prostitute, or if the applicant, with the approval of the jus-
ters into a recognizance, with or without sureties, as to the
seems meet, for her good behaviour during three months
ter the justice shall order that she be relieved from periodical
l examination. "By sect. 35, "Every such recognizance
e deemed to be forfeited if at any time during the term for
it is entered into the woman to whom it relates is (within the
of any place to which this act applies) in any public thorough-
treet, or place for the purpose of prostitution, or otherwise
a those limits) conducts herself as a common prostitute."

f from Examination on Application to a visiting Surgeon.] By
3 Vict. c. 96, s. 9, "Any women subjected, either on her own
ssion or under the order of a justice, to a periodical medical
nation under the 29 Vict. c. 35, who desires to be relieved
rom, and is not under detention in a certified hospital, may
application in writing in that behalf to the visiting surgeon.
isiting surgeon shall cause a copy of such application to be de-
l to the superintendent of police, and if, after a report from such
ntendent, he is satisfied by such report or other evidence that
pplicant has ceased to be a common prostitute, may, by order
his hand, direct that she be relieved, and she shall thereupon
lieved, from periodical medical examination. Such order
be in triplicate; one copy shall be delivered to the woman,
wo copies shall be delivered to the superintendent of police, who
communicate one copy to the justice (if any) who made the
subjecting the woman to a periodical medical examination, or
successor in office. The provisions of this section shall be in
ion to and not in substitution for the provisions of the 29 Vict.
for relieving a woman from examination."

de of Service of Notices, Orders, &c.] By 29 Vict. c. 35, s. 41,
ery notice, order, or other instrument by this act required to be
d on a woman shall be served by delivery thereof to some per-
or her at her usual place of abode, or by delivery thereof to her
onally."

rms.] The 32 & 33 Vict. c. 96, gives in the second schedule
) the necessary forms of certificates, orders, and other instru-
ts which, or these to the like effect, may be used under the acts.
29 Vict. c. 35, s. 40, presumption as to Signatures of Justices, &c.

CONVICTS.

he act 33 & 34 Vict. c. 23, passed 4th July, 1870, "to abolish 33 & 34 Vict. c. 23.
feitures for Treason and Felony, and to otherwise amend the
relating thereto," contains various provisions, sects. 6—20,
orizing the appointment by her majesty of some person as

33 & 34 Vict. c. 23.

an administrator, to whom to commit the custody and ma of the property of certain convicts.

Appointment by Justices of Interim Curator, if no Admi By sect. 21, "If no such administrator as aforesaid shall h appointed an interim curator of the property of any convic appointed by any justices of the peace in petty sessions asse or, where there are no petty sessions, by any justice of t having jurisdiction in the place where such convict before viction shall have last usually resided,—upon the appli any person who shall be able to satisfy such justice that th cation is made *bonâ fide* with a view to the benefit of the or of his family, or to the due and proper administration and m ment of his property and affairs;—and the interim curator t pointed may be either the person making the application other person willing to accept the office, and competent charge its duties as to such justice shall seem fit." By s "Before making any such appointment the justice shall req applicant to make oath that no administrator or interim cu the property of such convict has been to his knowledge c already appointed;—and the applicant shall also state upon the best of his knowledge and belief, who are the nearest re (including any husband or wife) of such convict, and (if an there be) where they are residing, and whether any and w them have consented to or have had notice of such application it shall be competent for such justice to require notice of such cation to be given to all such persons and in such manner as t justice shall seem fit."

Removal of Interim Curator for Cause shown.] Sect. 23. interim curator so appointed may be removed, for any cause s to the satisfaction of the justices or justice of the court, upo application of any relative of the convict, or of any person inte in the due and proper administration and management of his pr and affairs, either by the petty sessions or justice by whom h appointed (or, in the event of such justice dying or being una act, by any other justice having the like jurisdiction) or by any in which proceedings for an account may be instituted as herein provided;—and upon the death or removal of any such interim cu a new interim curator may be appointed in the same manner an the like authority as aforesaid, or (in case any such proceedings be then depending) by the court in which any such proceedings be so depending as aforesaid."

Powers of Interim Curator.] Every interim curator so appointe aforesaid shall have power (unless and until an administrator s be appointed under this act, in which case the authority of s interim curator shall thenceforth cease and determine) to sue in own name as such interim curator, at law or in equity, for

ion and recovery of any part of the property in respect of he shall have been so appointed or for damages in respect of ury thereto, and to defend in his own name as such interim any action or suit brought against such convict or against in respect of such property, and to receive and give legal ges for all rents, dividends, interest, and income of or from such property, and also to receive and give discharges debts due to such convict, or forming part of his property, pay and discharge all or any debts due from such convict such property, and to settle and adjust accounts with any or creditor of such convict, and generally to manage and ister the property of such convict;—and also to make or to be made such payments and allowances for the support intenance of any wife or child of such convict, or of any relative dependent on him for support, as shall be specially rized by any such justice or court aforesaid (who shall have from time to time to authorize the same), or by any other having competent jurisdiction to authorize the same, out of income of such property, or (in case such income shall be ficient for that purpose) out of the capital thereof;—and such interim curator shall be entitled to retain out of such rty, or out of the income thereof, all his costs, charges, and nses properly incurred in and about the discharge of his s as such curator.

33 & 34 Vict. c. 23.

rsonal Property may be sold by Interim Curator under special r of Justices or Court.] Sect. 25. "Any personal property of convict may be sold and transferred by such interim curator nd with the authority of such justice or court as aforesaid, or ny other court having competent jurisdiction to order the same, not otherwise;—and such interim curator shall be accountable he proceeds of any property so sold in the same manner as for property while remaining unsold."

CORN DECLARATION.

o be made before a justice (5 Vict. c. 14, s. 23). [Form, Oke's *rmalist*," 6th edit. p. 752.]

CORPORATIONS.

elivery of Books, &c.] By 5 & 6 Will. 4, c. 76, s. 90, the town k, treasurer, or other officer appointed by the council, refusing wilfully neglecting to deliver accounts, make payment, &c. in three days after written notice, upon complaint thereof to justice of the county or other jurisdiction wherein officer shall or reside [at any time, see the case of *Meyer* v. *Harding*, Vol. I. 135, *Note* 19], justice may grant a warrant for his apprehension,

5 & 6 Will. 4, c. 76.

5 & 6 Will. 4, c. 76.

—and two justices may, on neglect to deliver the same satisfaction, commit offender to prison, without bail, have paid such monies, &c., or render such account, or satisfaction in respect thereof. [Forms of Complaint, C mitment, &c., Oke's "*Formulist*," 6th edit. p. 752, a decision in *Eggington* v. *Mayor, &c. of Lichfield* (24 Q. B. 360), which shows that the case is within the c. 43, s. 24.]

By sect. 65, a similar remedy is given against of possession of monies, goods, valuable securities, book of the body corporate, and not delivering up the same.

COUNTY POLICE.

We propose to give here a reference to the prov several acts on this subject, viz. the 2 & 3 Vict. c. 93 c. 88; 19 & 20 Vict. c. 69; 20 Vict. c. 2; 22 & 23 Vic 28 Vict. c. 35.

I. *Analysis of the Police Acts.*
II. *Matters for Justices out of Sessions.*

I. *Analysis of the Police Acts.*

Etablishment of the Constabulary.] Under the 2 & ss. 1, 2, 3, 5, and under the 3 & 4 Vict. c. 88, ss. 2 the power given to the justices in quarter sessions t police force for the whole or parts of their counties, the county into police districts, was discretionary, and consolidate two or more police districts under 22 & 2 s. 1 (see *Ex parte Knowling*, 34 L. J. (N. S.) M. C. 19 & 20 Vict. c. 69, s. 1, they were to proceed at t sessions, 1857, to establish a sufficient police for the w or if already established in part then for the residue. where constabularies were established in divisions of a establishments to be consolidated into one force. The require separate police districts to be constituted in co

Consolidation with Boroughs.] 2 & 3 Vict. c. 93, s. boroughs incorporated under the 5 & 6 Will. 4, c. 76, f but by 3 & 4 Vict. c. 88, s. 14, boroughs might agree their police with the county police, and no such agre put an end to without the sanction of the secretary of Vict. c. 69, s. 20). By 19 & 20 Vict. c. 69, s. 5, t representations from boroughs, may arrange terms of with counties, and vary such terms from time to time.

Appointment, Duties, &c. of Chief Constable and Dep more chief constables to be appointed by the quarter

be approval of the secretary of state (2 & 3 Vict. c. 93, s. 4; Vict. c. 69, s. 1), who may serve for more than one county t. c. 2, ss. 1, 2, 3);—and the chief constable may appoint tendents of divisions and the petty constables, subject to the l of the justices in petty sessions (2 & 3 Vict. c. 93, s. 6), and leputy under certain restrictions (s. 7);—he may also appoint les at the cost of individuals (3 & 4 Vict. c. 88, s. 19), and l any constable (22 & 23 Vict. c. 32, s. 26). The chief con- s to attend each quarter sessions or adjournment and make ly reports (2 & 3 Vict. c. 93, s. 17), and also monthly returns Disposition and number of the force (3 & 4 Vict. c. 88, ss. 31, He is to have allowances for necessary expenses (2 & 3 Vict. s. 18).

pointment, &c. of Superintendents.] Superintendent to be ap- d for each division by the chief constable, subject to the al of justices in quarter sessions (2 & 3 Vict. c. 93, s. 6, ed by 3 & 4 Vict. c. 88, s. 26). To send monthly return of ition and number of force to the chief constable (3 & 4 Vict. s. 32).

pointment, &c. of Petty Constables.] The number of constables to be more than one man for every 1,000 of the inhabitants ling to the last census, the population of the excepted boroughs wns being deducted (2 & 3 Vict. c. 93, s. 1), and the number ppointed may be afterwards increased or diminished by the er sessions with consent of the secretary of state (s. 2). The constable is to appoint the petty constables, subject to the val of the justices in petty sessions, and he may dismiss them

pointment of Local and Private Constables.] The power to nt local constables is repealed by 22 & 23 Vict. c. 32, s. 28. & 4 Vict. c. 88, s. 19, the chief constable may, with approval e quarter sessions, appoint additional constables at the cost of iduals applying, who may discontinue them on giving a h's notice.

risdiction of the Police.] By 2 & 3 Vict. c. 93, s. 8, the chief other constables are to have all the powers, privileges and s throughout the county, and also in all liberties and franchises detached parts of other counties locally situated within such ty (and see s. 27; 3 & 4 Vict. c. 88, s. 2; and 21 & 22 Vict. c. 68, . 2, as to transferring detached parts of counties for the purposes he constabulary), and also in any county adjoining to their ty, which any constable duly appointed has within his con- lewick by virtue of the common law, or of any statute. The visions of the Special Constables Act, 1 & 2 Will. 4, c. 41, par- y apply to the county police, 2 & 3 Vict. c. 93, s. 8, enacting er alia), that "every provision of the first recited act [1 & 2

Will. 4, c. 41] shall be deemed to extend to the constabl
under this act, except as to the manner of their appo
dismissal, the time for which they shall serve, and th
which their allowances shall be paid, or as to any m
expressly otherwise provided." See those provisions o
4, c. 41, ss. 11, 19, *ante*, p. 1356. By 19 & 20 Vict. c.
are to have the like powers, &c. in boroughs as borou
have in the county; but by 22 & 23 Vict. c. 32, s. 2, th
be required to act in boroughs having a separate poli
ment, except in execution of warrants of justices of t
by order of chief constable or superintendent.

Superseding Constables under Local or other Acts.] V
ception of special constables, high constables and pa
stables, the power to appoint petty constables under l
acts is to cease and determine when the 2 & 3 Vict. c. 9
ration (2 & 3 Vict. c. 93, s. 25); but this provision is
for two years any places where the population is more
(s. 26). Also by 3 & 4 Vict. c. 88, s. 20, constables app
the Watching Act, 3 & 4 Will. 4, c. 90, or any local ac
tinue until the chief constable shall notify to the local
is ready to undertake the charge of the place. By sect
provision is made for the rates or debts outstanding, t
ments of the constables superseded, &c. By 19 & 20
s. 18, until the constables, &c., appointed for any paris
the act 3 & 4 Will. 4, c. 90, or under any local act au
appointment of constables, &c., and authorizing rates
for defraying the expenses of such constables, &c., are
as a separate force in manner provided by sect. 20 of 3
88, and by this act, all the provisions of this act appl
constables of any borough acting under the 5 & 6 W
are to be applicable to the constables, &c., appointe
3 & 4 Will. 4, c. 90, or under such local act, in and for
&c., and until such discontinuance all the provisions
applicable to the watch committee of a borough, are t
able to the inspectors, commissioners or other person
appointment of constables, &c. in and for such pari
the police of such parish, &c. are to be visited and i
by the inspectors under this act;—and the provision
enabling the treasury to make payment towards the
the police of a borough having a population exceedi
until such discontinuance, to extend to the police of
&c. having the like population. By sect. 19, whe
parish, &c., having such constables, &c., contains a p
15,000 persons or upwards, the chief constable of th
which such parish, &c. is situate is not to give notice,
Vict. c. 88, s. 20, that he is ready to undertake the ch

, &c., without the previous authority of the secretary of state
tice of the intention of the chief constable to apply to the
ry of state for such authority is to be published by such chief
ble in such parish, &c. in manner directed by the said sect. 20
ing the publication of the notice therein mentioned. 14 days
t before such application is made.

leges and Liabilities, &c. of Constables.] See sect. 4 of 2 & 3
.93, on "*Jurisdiction of the Police*," p. 125. The chief and
onstables are disqualified from voting at elections for members
iament (2 & 3 Vict. c. 93, s. 9), under a penalty of £[illegible] & 3
c. 32, s. 3), are to exercise no other employment, &c. and
mpt from serving on juries (2 & 3 Vict. c. 93, s. [illegible]) but this
o prevent them from receiving any half-pay, s. [illegible]. They
to resign their office without leave or a month's notice under
lty of £5 (s. 13); and if dismissed they are to deliver up their
rements, &c., under pain of imprisonment for a month, and a
may grant a warrant to search for same (s. 14.

s at Assizes.] By 22 & 23 Vict. c. 32, s. 14, the justices in
l or quarter sessions may direct the police to keep order in
of assize.

, Fees and Allowances to Constables.] The pay fee is fixed by
arter sessions, subject to certain rules made by the secretary
te (2 & 3 Vict. c. 93, ss. 1, 3; 19 & 20 Vict. c. 69, s. 1). By 2 & 3
c. 93, s. 18, in addition to the salary to be paid to the chief
able, reasonable allowances may be made to him by the quarter
ns for expenses necessarily incurred by him, and the constables
his orders, in the apprehension of offenders, and in the execu-
of his and their duty (see Vol. I. p. 123, crown office's opinion
n). No constable, other than a local constable, is to take fees
own use for the performance of his duties (19 & 20 Vict. c. 69.

By 3 & 4 Vict. c. 88, s. 17, as amended by 22 & 23 Vict. c. 32,
, the justices in quarter sessions may settle tables of fees and
rances for the service of summonses and execution of warrants.
h tables are to be approved by the secretary of state. The fees
ved by the constables are to be paid by the treasurer of the
ty in aid of police rate. As to allowances to the constables, see
peranuation Fund Allowances," *infra*.

lice Rate.] The 2 & 3 Vict. c. 93, authorized the expenses of
ing that act into execution to be paid out of the county rate;
that was repealed by 3 & 4 Vict. c. 88, s. 3, and the justices in
rter sessions authorized to make a police rate. Sect. 4 provides
property is to be valued, and sect. 5 provides that the police rate
be levied and collected with the county rate. Provision is also
le, by sects. 6, 7, 8, for enforcing contributions to the police rate by
rties and detached parts of counties. The counties may be formed

into police districts (s. 27), and each police district is to pa
own constables (s. 28). Station houses and strong room
be provided and the cost defrayed out of the police rates
for which purpose money may be borrowed on the credit
rates (s. 13).

Promotion of Constables.] See 22 & 23 Vict. c. 32, s. 19
reckoning of service.

Superannuation Fund and Allowances.] 3 & 4 Vict. c. 88
provides that a superannuation fund shall be provided for con
by deducting from the pay of every constable belonging to th
force a sum after such yearly rate as the justices of the co
general or quarter sessions assembled shall direct, not being
than £2 : 10*s.* in £100, and from certain fines and moieties
(see Vol. I. p. 244), which were to be invested, and with the in
and dividends to accumulate for such fund or for retiring allo
or gratuities as ordered by the quarter sessions upon the
mendation of the chief constable. The justices are to guaran
security of the superannuation fund, and make good any defi
out of the county rate. The rates of superannuation to the cons
are fixed by sect. 11, viz.—15 years and less than 20 years' servic
the pay; 20 years or upwards, two-thirds of pay; if disabled
on duty, not exceeding whole of pay. 19 & 20 Vict. c. 69, s. 10,
the quarter sessions power to grant gratuities in gross out
superannuation fund to incapacitated constables who have not s
15 years. By sect. 11, any deficiency in the superannuation fun
be made up out of the police rate. By sect. 12, gratuities m
granted to officers superseded by the county police. Power is
by sect. 13 to grant annuities to chief constables, to be paid
the police rate. By 22 & 23 Vict. c. 32, s. 20, the quarter se
may grant gratuities to widows of constables dying in the se
These provisions are further amended by 28 Vict. c. 35, s. 3.

Inspection of Force and Repayments from Treasury.] By 19
Vict. c. 69, s. 15, the crown may appoint inspectors for inquiring
the state and efficiency of the police in counties and boroughs,
and by sect. 16, on the certificate of the secretary of state th
efficient police has been established in any county or borough,
fourth of the charge for pay and clothing is to be paid by the treas
but not to any borough whose population does not exceed 5,000,
not consolidated with the police of a county (s. 17).

Station Houses.] The justices in quarter sessions are empow
to order that station houses and strong rooms, or either of them,
the temporary confinement of persons taken into custody, be provi
in such places as they shall think fit, and upon the plan approved
the secretary of state; and for that purpose to purchase and h
lands, &c., the cost to be defrayed out of the police rates (3 & 4 V
c. 88, s. 12). Money may be borrowed for the purpose on the cr

e police rate (s. 13). As to providing lock-ups on the borders unties at their joint expense, see 11 & 12 Vict. c. 101. By 20 Vict. c. 69, s. 22, where a station house, &c. has been ided under the above enactment for part of a county, the jus- are to purchase the station house, &c., and pay for it out of ounty rate, and if the cost of erecting has been made charge- by mortgage on the police rate, the charge is to be transferred e county rate. Sect. 23 incorporates the provisions of "The ls Clauses Act, 1845," 8 & 9 Vict. c. 18, with it for purposes of hases of station houses, &c., and sect. 24 extends the pro- ns of the 7 Geo. 4, c. 18, as to disposal of unnecessary station es, &c. By "The Petty Sessions and Lock-up House Act, ," 31 Vict. c. 22 (which act is to be in addition to powers r other acts, s. 12), s. 6, "any local authority [*i. e.*, the ter sessions in counties, &c., and in boroughs having a rate commission the council, s. 3] may, with the approval of of her Majesty's principal secretaries of state, contract with neighbouring local authority for the reception by such hority into their lock-up house, and the custody and main- nce therein, of any persons who would otherwise be liable to placed in a lock-up house situate within the jurisdiction of the ner authority;"—and by sect. 7, such contracts may "include costs of conveying such persons to and from such lock-up ses previous to their committal for trial, and also the costs of veying them to prison when committed for trial." The lock-up se is to be deemed to be within the jurisdiction of the contract- authorities (s. 8), the expenses being defrayed accordingly 9);—and the "London Gazette" containing an announcement the approval of such contract is to be evidence of such fact 10).

Annual Statement of Crime.] 19 & 20 Vict. c. 69, s. 14, requires justices of every county and the watch committee of every rough in October in every year, to transmit to the secretary of te a statement, in such form as he may direct, for the year end- the 29th of September then last, of the number of offences orted to the police, the number of persons apprehended by the lice, the nature of the charges against them, the result of the ceedings taken thereupon, &c.;—and a classified abstract of all ch reports and returns is to be annually prepared and laid before rliament. 32

Execution of Warrants of Commitment.] 3 & 4 Vict. c. 88, s. 33, ovides for the execution of commitments and the transference of

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32 Pursuant to this enactment the criminal portion of the "Judicial tatistics" are now annually prepared and published under the superin- ndence of the Home Secretary.

prisoners from station to station till they arrive at the ga
they are committed.

II. *Matter for Justices out of Sessions.*

The matters which justices of the peace out of quart
have to do with on this subject, in addition to the offe
referred to, are:—

Two or more justices, in petty sessions assembled, to
the petty constables named by the chief constable (
c. 93, s. 6), and to [take the declaration, 31 & 32
s. 12, sub-s. 4] of the chief and other constables on t
into office (Id. s. 8), which declaration may be admi
one justice, and it should be in the same form as
constables under the 1 & 2 Will. 4, c. 41 (see *ante*,
2 & 3 Vict. c. 93, s. 8, *ante*, p. 1367, incorporate
visions of that statute in that respect with it:

[The power given by 3 & 4 Vict. c. 88, s. 16, to a
swear in local constables is repealed by 22 & 23
s. 28.]

One justice to take the declaration [31 & 32 Vict.
sub-s. 4] of a private constable appointed by the
stable at the cost of an individual (3 & 4 Vict. c. 88
3 Vict. c. 93, s. 8).

[Forms of Certificates, &c., Oke's "*Formulist*," 6th e

COUNTY RATE. 33

15 & 16 Vict. c. 81.

Recovery of, in Unions.] By 15 & 16 Vict. c. 81,
justices in quarter sessions are to send precepts dir
guardians of unions for payment of county rates, who
them (and see s. 34). [Forms of Precepts, Oke's "*Form*
ed. pp. 753, 754.] If the guardians fail to pay the s
the time limited, the justices may issue warrants to th
of parishes, &c. to pay the same, with 10*s.* per cent.
(s. 27);—and if the overseers, &c., fail to pay the sam
justice, on complaint of the clerk of the peace or treas
county, may issue warrant of distress for levying the sa
seers', &c. goods (s. 28). [Forms, Nos. 3—5, Oke's "
6th ed. pp. 754, 755.] Parishes not in arrear with c
are to be reimbursed by those which are in arrear (s.

33 In the cases under this title in which the justices iss
warrant without making an order, the proceedings are not
11 & 12 Vict. c. 43 (see Vol. I. p. 133). The "Union Asses
mittee Act, 1862," 25 & 26 Vict. c. 103, does not affect ass
county rates made by the committee of justices under the 1
c. 81 (29 & 30 Vict. c. 78, s. 1).

Vict. c. 33, where there are separate divisional county trea- 15 & 16 Vict. c. 81.
s.

very of, from Parishes not in Unions.] By sect. 30, the jus-
in quarter sessions are to issue precepts to the overseers of
ses, &c. not comprised in unions, or only partly within the juris-
n of justices, and the amount recovered in the same manner
unions;—and by sect. 31, the powers of the act are to extend
ces where there are no separate churchwardens, &c., or where
parate or distinct poor rate is made for any place extending
two or more counties, &c. Overseers of parishes, partly situ-
within boroughs and partly without, to collect the county rates
ble on the part of the parish not comprised within the borough
the parties assessed to the poor rate (s. 32), an appeal being
red to such parties against the rate in like manner as on appeals
ist the poor rate (s. 33). Sect. 34 provides for the issue of a
ess warrant for the amount in arrear on the overseers, as in
where the parish is wholly situated in the county.

here High Constable in Office.] In counties in which the office
igh constable is held for life, or during good behaviour, the
ty rate is to continue to be collected by him, until any vacancy
rs in the office by the expiration of his appointment, or other-
[*but see* 32 & 33 *Vict. c.* 47, *s.* 4, *now hereon since* 6*th August*,
]; and the precepts before mentioned are to be directed to him,
will issue his warrants to the respective overseers;—and if
seers neglect to pay him, any justice of the county, upon com-
nt of such high constable, may issue distress warrant (s. 36);
if the high constable do not give approved security, the justices
quarter sessions are to order the overseers to pay the quota to the
nty treasurer (s. 37).

ecovery of, from Borough Treasurers.] By sect. 38, any two
ices of the county, upon complaint of the treasurer of the same
nty, made within one calendar month after the issue of any
er upon the council of any borough by the treasurer, under
6 Will. 4, c. 76, ss. 114, 117, may issue to the borough treasurer
arrant, ordering him to pay to the county treasurer, over and
ides the sum mentioned in the treasurer's order, the additional
n of 10 per cent. on the original order;—and until payment
reof the county treasurer is to have all the powers for the
overy thereof as are given against overseers for the recovery of
nty rates and surcharges by this act. [As to parishes partly
thin and partly without a borough, see 29 & 30 Vict. c. 113, s. 13,
plying 13 & 14 Vict. c. 101, s. 10, as to employing collector of
or rates in collecting county rate in such places.]

CUSTOMS. See p. 850, *ante*.

DEALERS IN OLD METALS.

24 & 25 Vict. c. 110.

As to the issue of a search warrant for suspected articles, to the registration of dealers with the police, and the author the police to visit places of business of registered dealers, s provisions of the 24 & 25 Vict. c. 110, in *Notes* 115, 116, pp. 388—392, and the necessary Forms, Oke's "*Formulist*," 6 pp. 146, 150.

DISEASES PREVENTION. See tit. "*Contagious Diseases at and Military Stations*," *ante*, p. 1359, and tits. "*Public He* and "*Sheep and Cattle*," *post*.

DISORDERLY HOUSES.

25 Geo. 2, c. 36.

Two justices (usually those attending *the* quarter sessions) ascertain the amount of the costs incurred in prosecuting a k of a disorderly house (25 Geo. 2, c. 36, s. 5), and grant a certi thereof. [Form, Oke's "*Formulist*," 6th ed. p. 757.]

DISSENTERS.

52 Geo. 3, c. 155.

Preachers to take the oaths and subscribe the declarations b preaching, or when thereunto required by a justice (52 Geo. 3. c. ss. 5, 7), and justices to give a certificate thereof. [Form, p. Oke's "*Formulist*," 6th ed.] Fee for certificate, 2*s*. 6*d*. (s. 8). to the registration of buildings, see 15 & 16 Vict. c. 36, and 18 Vict. c. 81; and see also this title, Vol. I. p. 394.

DISTRESS.

57 Geo. 3, c. 93.

Costs of Distress.] Where a distress is made for arrears of r [or for land tax, assessed taxes, poor's rates, church rates, tit highway rates, sewer rates, or any other rates, taxes, imposit or assessments whatsoever, 7 & 8 Geo. 4, c. 17] not exceeding no greater charges than the following are to be taken in respec the same (57 Geo. 3, c. 93, s. 1):—

	£	s.	d.
Levying distress	0	3	0
Man in possession, per day	0	2	6
Appraisement, whether by one broker or more, 6*d*. in the pound on the value of the goods.			
All expenses of advertisements, if any such .	0	10	0
Catalogues, sale and commission, and delivery of goods, 1*s*. in the pound on the net produce of the sale.			

These charges ought to be adopted in distresses for penalties conviction, or sums ordered by a justice on complaint for wag &c.; but there is no enactment on this subject. *Vide* penalties taking more, tit. "*Distress*," Vol. I., Offences 3, 4, p. 396.

DIVORCE.

r to protect Wife's Earnings and Property.] By 20 & 21 Vict. "An Act to amend the Law relating to Divorce and Matri- l Causes in England, s. 21, it is enacted,—"A wife deserted : husband may at any time after such desertion, 34 if resi- rithin the metropolitan district, apply 35 to a police magis- —36 or if resident in the country, to justices in petty ns,—or in either case to the court, [or to the judge ordinary, 23 Vict. c. 108, s. 6]—for an order to protect any money or rty she may acquire by her own lawful industry, and pro- which she may become possessed of, after such desertion, st her husband or his creditors, or any person claiming under —and such magistrate or justices or court [or judge ordinary], isfied of the fact of such desertion, and that the same was out reasonable cause, and that the wife is maintaining herself er own industry or property, may make and give to the wife rder [which 'shall state the time at which the desertion in con- ence whereof the order is made commenced,' 21 & 22 Vict. c. 108,] protecting her earnings and property acquired [and property ed in the wife as executrix, administratrix or trustee, 21 & 22 . c. 108, s. 7] since the commencement [and property to which wife is entitled for an estate in remainder or reversion at the , Id. s. 8] of such desertion, 37 from her husband and all

20 & 21 Vict. c. 85.

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34 As to what is "desertion," see *Cargill* v. *Cargill*, 27 L. J. (N. S.) . & M. 69; *Cudlipp* v. *Cudlipp*, 27 L. J. (N. S.) Div. & M. 64; *Ward* *Ward*, 27 L. J. (N. S.) Div. & M. 63; *Thompson* v. *Thompson*, 27 L. J. .S.) Div. & M. 65.

35 The application had better be a written one, and substantiated on h [Form, No. 1, p. 755, Oke's "*Formulist*," 6th ed.], and it is recom- nded, when convenient, that notice be given to the husband of the nded application.

36 The City of London, not being within the metropolitan [police] trict, nor the city justices *police* magistrates, they have no jurisdiction der this enactment. The court being in the city, application will be ide there.

37 In the case of *Ex parte Mullineux* (27 L. J. (N. S.) Prob. & M. 19;) Law T. 352), the judge ordinary said, where the motion was for an der to protect certain property specified in the application of the wife— pon the facts stated by Mrs. M. in her affidavit, she is entitled to an der for the protection of the property she has acquired since the deser- on. I cannot, however, give an order to protect any specific property. he order must be in general terms, leaving open the question of title to e specified property." By 21 & 22 Vict. c. 108, s. 8, the order shall, ntil reversed or discharged, so far as necessary for the protection of any erson or corporation who shall deal with the wife, be deemed valid and fectual;—and no discharge, variation, or reversal of such order is to ejudice or affect any rights or remedies which any person would have ad in case the same had not been so reversed, varied or discharged in respect of any debts, contracts or acts of the wife incurred, entered into or done between the times of the making such order and of the discharge, variation or reversal thereof. By sect. 9, the order is, as regards all per-

20 & 21 Vict. c. 85.

creditors and persons claiming under him,—and s
and property shall belong to the wife as if she were s
Provided always, that every such order, if made by a
trate or justices at petty sessions, shall, within ten d
making thereof, be *entered* with the registrar of the
within whose jurisdiction the wife is resident;—38
shall be lawful for the husband, and any creditor or
claiming under him to apply to the court, or to *the*
justices by whom such order was made, for the discl
[amended by 27 & 28 Vict. c. 44]:—Provided also
husband, or any creditor of or person claiming under
shall seize or continue to hold any property of the wif
of any such order, he shall be liable, at the suit of the
she is hereby empowered to bring) to restore the spec
and also for a sum equal to double the value of the
seized or held after such notice as aforesaid:—if any
protection be made, the wife shall, during the continu
be and be deemed to have been, during such desert
the like position in all respects, with regard to prope
tracts and suing and being sued, as she would be und
she obtained a decree of judicial separation." 39

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sons dealing with the wife in reliance thereon, to be conclu
time when the desertion commenced. By sect. 10, persons
tions are indemnified in making payments under orders s
versed.

38 The order is recommended to be made in duplicate, o
handed to the registrar, and the other kept by the wife; b
provision for registering the discharge order.

39 By sect. 16, "a sentence of judicial separation (whi
the effect of a divorce *à mensâ et thoro* under the existing
other legal effect as herein mentioned) may be obtained
husband or wife, on the ground of adultery or cruelty, or d
out cause for two years and upwards;" to be made by p
court (s. 17); and the decree may be again reversed by the
Sects. 25 and 26 contain provisions applicable to cases of a ju
tion; sect. 25 provides, that "the wife shall, from the dat
tence, and whilst the separation shall continue, be consid
sole with respect to property of every description which she m
which may come to or devolve upon her; and such propert
posed of by her in all respects as a *feme sole*, and on her dec
shall, in case she shall die intestate, go as the same would ha
husband had been then dead; provided, that if any such wife
cohabit with her husband, all such property as she may be en
such cohabitation shall take place shall be held to her separat
however, to any agreement in writing made between herself
band whilst separate." Sect. 26 provides, that "the wife s
separated, be considered as a *feme sole* for the purposes of
wrongs and injuries, and suing and being sued in any civi
and her husband shall not be liable in respect of any engag
tract she may have entered into, or for any wrongful act c
her, or for any costs she may incur as plaintiff or defenda
that where upon any such judicial separation alimony has b
ordered to be paid to the wife, and the same shall not be du

arge of Order.] By 27 & 28 Vict. c. 44, "where under the ons of sect. 21 of the said act [20 & 21 Vict. c. 85] a wife d by her husband shall have obtained or shall hereafter obtain r protecting her earnings and property from a police magis- r justices in petty sessions, or the court for divorce and matri- causes, as the case may be, the husband and any creditor or person claiming under him may apply to the court or to the trate or justices by whom such order was made for the dis- thereof as by the said act authorized;—and in case the said shall have been made by a police magistrate and the said trate shall have died or been removed, or have become inca- of acting, then in every such case the husband or creditor, or ther person as aforesaid, may apply to the magistrate for the being acting as the successor or in the place of the magistrate nade the order of protection, for the discharge of it, who shall authority to make an order discharging the same;—and an for discharge of an order for protection may be applied for d be granted by the court, although the order for protection not made by the court,—and an order for protection made at petty sessions may be discharged by the justices of any later sessions, or by the court." 27 & 28 Vict. c. 44.

rms.] Application, Order, and Discharge of Order, Oke's *rmalist*," 6th ed. pp. 757—759.

rder for Separation upon Conviction for an Aggravated Assault.] 4th section of the 41 Vict. c. 19 ("The Matrimonial Causes 1878"), gives a power to justices upon the hearing of a charge nst a man of an aggravated assault upon his wife, when he is pinion that the future safety of the wife is in peril, to order that shall be no longer bound to cohabit with him. The 4th section s follows:—

"If a husband shall be convicted summarily or otherwise of an gravated assault within the meaning of the statute twenty-fourth l twenty-fifth Victoria, chapter one hundred, section forty-three, on his wife, the court or magistrate before whom he shall be so nvicted may, if satisfied that the future safety of the wife is in il, order that the wife shall be no longer bound to cohabit with r husband; and such order shall have the force and effect in all

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band, he shall be liable for necessaries supplied for her use; provided so, that nothing shall prevent the wife from joining, at any time during ch separation, in the exercise of any joint power given to herself and r husband," [and she may make a valid will of property acquired since he desertion: *In the goods of Betty Farraday*, deceased, 25 J. P. 808]. The order of protection is not retrospective as to entitle the woman to sue a breach before its date (*Midland Railway Company* v. *Pye*, 4 Law T., N. S. 510).

27 & 28 Vict. c. 44.

respects of a decree of judicial separation on the ground o
and such order may further provide,

"1. That the husband shall pay to his wife such weekl
the court or magistrate may consider to be in a
with his means, and with any means which the
have for her support, and the payment of any sum
so ordered shall be enforceable and enforced ag
husband in the same manner as the payment of
enforced under an order of affiliation; and the
magistrate by whom any such order for payment c
shall be made shall have power from time to time
the same on the application of either the husband or
upon proof that the means of the husband or wife h
altered in amount since the original order or any sul
order varying it shall have been made;

"2. That the legal custody of any children of the marriag
the age of ten years shall, in the discretion of the
magistrate, be given to the wife:

"Provided always, that no order for payment of money
husband, or for the custody of children by the wife, shall b
in favour of a wife who shall be proved to have committed ad
unless such adultery has been condoned; and that any or
payment of money or for the custody of children may be disc
by the court or magistrate by whom such order was mad
proof that the wife has since the making thereof been gu
adultery; and provided also, that all orders made under this
shall be subject to appeal to the Probate and Admiralty Divi
the High Court of Justice." [Form of Order, Oke's "*Form*
6th ed., title "*Assault*," No. 3, p. 99.]

DOCKYARD PORTS REGULATION.

28 & 29 Vict. c. 125.

Recovery of Expenses of unmooring Vessels, &c.] By "The
yard Ports Regulation Act, 1865" (28 & 29 Vict. c. 125), s.
the master of a vessel within a dockyard port does not moor, ar
place, unmoor or remove the same according to the directions
by the Queen's harbour master, in conformity with any ord
council, the harbour master may cause the vessel to be mo
&c.;—and all expenses attending the exercise of these power
to be paid by the master of the vessel;—and (by s. 17) are t
recovered by summary proceedings before a justice like penal
for which see title "*Dockyard Ports Regulation*," Vol. I. pp. 3
398.

Recovery of Expenses of Removal of Wreck and unserv
Vessels.] By sect. 13, the Queen's harbour master may remove
wreck or other thing being an obstruction, and any floating timl

ı. 14) any vessel laid by or neglected as unfit for sea service. 28 & 29 Vict. c. 125.
nses incurred in the removal are to be repaid by the owner; harbour master may detain and sell the wreck, &c., and out oceeds pay those expenses, rendering any overplus to the -and any deficiency may be recovered from the owner (s. 15), oned *supra*.

ry of Expenses by Owner from Master, &c.] By sect. 16, if er of any vessel or thing is in any case compelled to pay any expenses, sum of money, or costs, by reason of any act or ı of the master of a vessel or other person, he shall be entitled er the amount paid by him, with costs, from the person who committed the offence or did the wrongful act in respect the owner was compelled to make such payment. [Reco- s *supra*.]

DOGS.

I. *Injuries to Cattle and Sheep by Dogs*, infra.
II. *Further Protection against Dogs*, infra.

I. *Injuries to Cattle and Sheep by Dogs.*

8 & 29 Vict. c. 60, in tit. "*Cattle and Sheep*," *ante*, p. 1343. 28 & 29 Vict. c. 60.

II. *Further Protection against Dogs.*

he Dogs Act, 1871" (34 & 35 Vict. c. 56), "An Act to provide r Protection against Dogs" (passed 24th July, 1871), contains llowing provisions:— 34 & 35 Vict. c. 56.

y Dogs may be detained and sold or destroyed by Police.] 1. "From and after the passing of this act any police officer or able may take possession of any dog that he has reason to see to be savage or dangerous straying on any highway [which 5 'includes any street or any place of public resort']", and not r the control of any person, and may detain such dog until the r has claimed the same, and paid all expenses incurred by n of such detention. Where the owner of any dog taken pos- on of by any constable is known, a letter, stating the fact of such having been taken possession of, shall be sent by post or other- to the owner at his usual or last known place of abode. When dog taken in pursuance of this act has been detained for three r days where the owner is not known as aforesaid, or for five r days where he is so known, without the owner claiming the e, and paying all expenses incurred by its detention, the chief er of police of the district 40 in which such dog was found may

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9 *Definition of "Police District" and "Chief Officer of Police."*] By 5 (*inter alia*), the expression "police district" means, in Eng-

34 & 35 Vict. c. 56.

cause such dog to be sold or destroyed. Any moni
the sale of any dogs in pursuance of this section
the account of the local rate, 41 and be applied to
which that rate is applicable. All dogs detained un
shall be properly fed and maintained at the expe
rate.

Dangerous Dogs may be destroyed by Order of Just
"Any court of summary jurisdiction 42 may take
complaint that a dog is dangerous, and not kept un
trol,—and if it appears to the court having cogn
complaint that such dog is dangerous, the court
order in a summary way directing the dog to be kep
under proper control or destroyed,—and any pe
comply with such order shall be liable to a penalty
twenty shillings for every day during which he
with such order." [Recovered as Offence 1, tit.
p. 398.] The discretion conferred by the word "o
going section, is, in the justices, and not in the ow
v. *Marsh*, 38 J. P. 678.

Restriction upon Dogs being at large if Danger fro
apprehended.] Sect. 3. "The local authority 43 ma
or a dog suspected of being mad is found within th

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land:—"1. The city of London and the liberties t
metropolitan police district; 3. Any county, riding,
liberty of a county, borough, city, town, place or union
of places maintaining a separate police force; and all
one chief constable shall be deemed to constitute one fo
poses of this definition:"—and the expression "chief o
"1. In the city of London and the liberties thereof, the
city police; 2. In the metropolitan police district, the
police of the metropolis; 3. Elsewhere, the chief co
constable, or other officer, by whatever name called, h
command of the police in the police district in referen
expression occurs: . . . Any act or thing by this act
done by the chief officer of police may be done by any p
by him in that behalf."

41 "*Definition of Local Rate.*"] The "local rate," a
schedule, is "the rate applicable to maintenance of polic

42 *Definition of "Court of Summary Jurisdiction."*] I
alia), this term means in England, "any two justices of
metropolitan stipendiary or other magistrate empowere
alone or with others any act authorized to be done b
justice of the peace."

43 The "local authority" is defined by the schedul
London and the liberties thereof, the commissioner of city
politan police district, the commissioner of police for the r
borough subject to the Municipal Corporations Act, 5 &
the mayor, aldermen and burgesses acting by the tow
district (no portion of which is included in a borough) fo
subject to the jurisdiction of any commissioners, trustees
intrusted by any local act, not being a turnpike act o
with powers of improving, cleansing, or paving any part
the commissioners, trustees or other body of persons so in

d when made vary or revoke, an order placing such as as they think expedient on all dogs not being under ol of any person during such period as may be prescribed rder throughout the whole of their jurisdiction, or such reof as may be prescribed in such order. Any person who ontravention of any order made in pursuance of this section liable to a penalty not exceeding twenty shillings. [Re- as Offence 2, tit. "*Dogs*," Vol. I. p. 398.] Due notice of der shall be published, at the expense of the local rate. visions in this act contained as to the detention and sale or tion of dogs found straying on the highway shall apply to und at large in contravention of any order made in pur- of this section." 34 & 35 Vict. c. 56.

DRAINAGE.

ies to Lands by non-maintenance of Banks, &c.] By 10 & 11 . 38, for "facilitating the drainage of lands," s. 14, where, lect of parties to join in maintaining, &c., banks lying near lands, injury is occasioned to the same, the occupiers may, giving notice, maintain the same, and recover the expenses, paid within one calendar month after demand, by making an ation to any justice [of the county and not interested, s. 19, would be a complaint within the 11 & 12 Vict. c. 43, s. 11, p. 135], who summons the proprietor or occupier before stices;—upon appearance the justices may make an order yment, and the amount can be recovered by distress (s. 16);— default of distress there may be imprisonment, under 11 & 12 c. 43, s. 22, Vol. I. p. 228, for not exceeding three calendar s, without hard labour. [Forms of Complaint, &c. Nos. 1—4, "*Formulist*," 6th ed. p. 760.] 10 & 11 Vict. c. 38.

sect 15, no entry is to be made on the lands of occupier neg- g to maintain banks, &c. without the warrant of two justices. ns, Nos. 5—7, Oke's "*Formulist*," 6th ed. pp. 760, 761.]

ainage of Land for Agricultural Purposes.] "The Land Drainage 1861," applies to commissions of sewers granted under it, as as to those granted previously (but see ss. 2, 54, 57), and is ed into three parts, under which we will refer to the matters h may come before justices:— 24 & 25 Vict. c. 133.

Districts to which Commissions of Sewers may issue.] Her Majesty, on recommendation of the Inclosure Commissioners for application of proprietors of one-tenth part of the land within the proposed boundaries, ss. 5, 6), may direct a commission of sewers to issue and assign limits thereto (s. 4), by which commissioners are named and appointed; her Majesty

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England not included in the above description, the justices in petty sions assembled at their usual place of meeting.

24 & 25 Vict. c. 133.

filling up vacancies as they arise (s. 14). W
mission is in force, the following matters wil
by justices:—Two or more justices assembled i
may, if owner consents, decide the following qu
upon the right of the commissioners to remov
interfere with any mill dam, weir or other ob
water, *i. e.*—(1.) Whether the proposed removal
is necessary for the effectual drainage of l
jurisdiction of the commissioners: (2.) Wheth
removal or interference will cause any injury
(3.) Whether any injury that may be caused
or interference is or is not of a nature to admi
compensated for by money (s. 18, and see s.
of owners).

If the decision is that the commissioners are ent
or interfere with such mill, &c. compensation
as under the Lands Clauses Act (see ss. 20, 5

As to the taking of lands, see sect. 28.

Penalties.] A parish officer refusing to permit
missioners to inspect poor rate, or to take cop
not exceeding £5 (s. 39); persons draining
commissioners without their consent, not exce
further penalty of 40*s.* for every day the offen
(s. 58). Recovered under 11 & 12 Vict. c. 43,
128.

2. Elective Drainage Board Districts.] By sect.
of not less than one-tenth part in acreage of
or other area of land that requires a comb
drainage, warping or irrigation, may, with
Inclosure Commissioners, and subject to the
parliament (see s. 64), constitute such bog,
drainage district; but this will not include a
the limits of a commission of sewers, or a
a local board of health, without the conse
authority in such place, but the drainage bo
will supersede the powers of commissioners o
district (ss. 66, 67). The members of a drai
named in the provisional order of the Incl
sioners, as well as the mode of election in su
(see ss. 68, 69, 70, and schedule, Part I. of act
certain provisions of 10 & 11 Vict. c. 16, a
with this act, in which the following matters w
justices:—

A summary remedy before two or more j
collectors or other officers of the board fai
or to deliver up documents, &c. (10 &
ss. 70—73).

Two justices may settle amount of compensation to be paid to auditors of accounts in case of dispute (Id. s. 92). 24 & 25 Vict. c. 133.

er of Private Owner to procure Outfalls.] Persons interested in land, who are desirous to drain the same, may pply in writing to adjoining owner for leave to make drains d improvements through or on his lands (ss. 72, 73); the sent of adjoining owner to be made by deed under seal s. 74).

he matters on which justices can act are:—

In determining disputed cases of compensation to occupiers or persons other than the owner interested in the lands, for the injury sustained by the making of the drains, &c., which is the same as the manner directed by the Lands Clauses Act (see "*Lands Clauses Act*," *post*) (s. 74).

By sect. 76, the adjoining owner is to be deemed to have dissented from the application made to him if he fail to express assent thereto within one month after service of the application; and in the event of such dissent there shall be decided, by two or more justices in petty sessions assembled, unless the adjoining owner require the same within the month to be decided by arbitration, the questions following:—(1.) Whether the proposed drainage or improvements in drains will cause any injury to the adjoining owner, or to the occupier or other person interested in the lands: (2.) Whether any injury that may be caused is or is not of a nature to admit of being fully compensated for by money. If the decision is that such injury will be caused, and is of a nature to be so compensated, the justices are to proceed to assess such compensation, and to apportion the same amongst the parties in their judgment entitled thereto. By sect. 78, the justices, in the event of their approving of a scheme of drainage as proposed by the applicant or as modified by themselves, are to cause a map thereof to be prepared and certify its correctness. [Costs of application to be paid by applicant (s. 82).]

Disputes as to the efficiency of drains laid down or diverted by adjoining owner in lieu of those made by other owner, to be decided by two or more justices assembled in petty sessions (s. 80).

Penalty on persons obstructing or injuring any drains or improvements in drains made under the act, not exceeding £10 (s. 81); recovered under 11 & 12 Vict. c. 43.

DRUNKARDS (HABITUAL).—See "*Habitual Drunkards.*"

DWELLING-HOUSES.

18 & 19 Vict. c. 132. *For Labouring Classes.*] Certain provisions of the 8 cc. 16, 18, are incorporated with this act (ss. 5, 15).

ELECTIONS (PARLIAMENTARY).

24 & 25 Vict. c. 53. *Voting Papers for Members for Universities.*] By 24 & : 53, which allows of votes at elections being recorded by voting papers (of which a form is given in a schedule), s. 1 paper, the date and names being previously filled in. "signed by the voter in the presence of a justice of the the county or borough in which such voter shall be then and the said justice shall certify and attest the fact of suc paper having been so signed in his presence, by signing a: thereof a certificate or attestation in the form or to the ef scribed in the said schedule, with his name and address and shall state his quality as a justice of the peace for suc or borough." The 30 & 31 Vict. c. 102, s. 45, applies t vision to elections for the University of London. The declaration in 24 & 25 Vict. c. 53, here referred to, is not quired; and the 31 & 32 Vict. c. 65, s. 1, substitutes i thereof the form of declaration following; that is to sa solemnly declare that I verily believe that this is the pa which *A. B.* (*the voter*) intends to vote pursuant to the pr of the 'Universities Election Acts, 1861 and 1868.'"

28 Vict. c. 36. *Declaration by County Voter on Change of Abode.*] By 28 36, "The County Voters Registration Act, 1865," sect. 10, person whose name appears on the list of voters then in forc whose then place of abode is not correctly stated in the said l who shall have received a notice of objection grounded second column of the list, and who shall have possessed on t day of July the same qualification in respect of which his has been inserted on the list, may, if he think fit, make and scribe a declaration before any justice of the peace,—or any missioner or other person authorized to administer oaths in her Majesty's superior courts at Westminster,—in the form tained in schedule (B.) to this act, or to the like effect." No. 2, Oke's "*Formulist*," 6th ed. p. 762.] The same s contains provisions that the declaration shall be dated, be se the clerk of the peace on or before the 14th September, who i endorse the day of its receipt, and to deliver all such to the vising barrister, who is to receive the same as evidence wit further proof, &c. &c.

OYERS AND WORKMEN ACT, 1875 (38 & 39 Vict. c. 90).

See "*Apprentices.*"

above statute having conferred upon justices extensive 38 & 39 Vict.
to deal civilly with the disputes between employers and c. 90.
en, it will be desirable to consider the subject somewhat in
lowing order:—

I. *Definitions.*
II. *Jurisdiction of Justices.*
III. *Procedure.*
IV. *Rules.*

I. *Definitions.*

tion 10 enacts, that:—

expression "*workman*" does not include a domestic or
servant, but, save as aforesaid, means any person who,
a labourer, servant in husbandry, journeyman, artificer,
raftsman, miner, or otherwise engaged in manual labour,
er under the age of twenty-one years or above that age, has
ed into or works under a contract with an employer, whether the
act be made before or after the passing of this act, be express
plied, oral or in writing, and be a contract of service or a con-
personally to execute any work or labour.

e expression "*Summary Jurisdiction Act*" means the act of
ssion of the 11 & 12 Vict. c. 43, inclusive of any acts amend-
the same.

e expression "*court of summary jurisdiction*" means—

1.) As respects the city of London, the lord mayor or any alderman of the said city sitting at the Mansion House or Guildhall justice-room; and

2.) As respects any police court division in the metropolitan police district, any metropolitan police magistrate sitting at the police court for that division; and

3.) As respects any city, town, liberty, borough, place or district for which a stipendiary magistrate is for the time being acting, such stipendiary magistrate sitting at a police court or other place appointed in that behalf; and

4.) Elsewhere, any justice or justices of the peace to whom jurisdiction is given by the Summary Jurisdiction Act: provided that, as respects any case within the cognizance of such justice or justices as last aforesaid, a complaint under this act shall be heard and determined and an order for imprisonment made by two or more justices of the peace in petty sessions sitting at some place appointed for holding petty sessions.

Nothing in this section contained shall restrict the jurisdiction the lord mayor or any alderman of the city of London, or of any

38 & 39 Vict. c. 90.

metropolitan police or stipendiary magistrate, in respect c
or jurisdiction which may now be done or exercised by h
court.

II. *Jurisdiction of Justices.*

The 4th section enacts, that—"A dispute under this ac
an employer and a workman may be heard and determi
court of summary jurisdiction, and such court, for the pu
this act, shall be deemed to be a court of civil jurisdiction
proceeding in relation to any such dispute the court may c
ment of any sum which it may find to be due as wages or
or otherwise, and may exercise all or any of the powers l
conferred in a county court 44: provided that in any proc
relation to any such dispute the court of summary jurisdi

(1.) Shall not exercise any jurisdiction where the amoun
exceeds £10; and

(2.) Shall not make an order for the payment of any sum
ing £10, exclusive of the costs incurred in the ca

(3.) Shall not require security to an amount exceeding
any defendant or his surety or sureties."

III. *Procedure.*

Mode of giving Security.] By the 8th section, a person
security by an oral or written acknowledgment, in or u

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44 The powers conferred on the county court are contained i
and by the following sub-sections:—

(1.) It may adjust and set off the one against the other all su
on the part of either the employer or of the workman, a
of or incidental to the relation between them, as the c
find to be subsisting, whether such claims are liquidat
liquidated, and are for wages, damages or otherwise; a

(2.) If, having regard to all the circumstances of the case, it
just to do so, it may rescind any contract between the
and the workman, upon such terms as to the apportio
wages or other sums due thereunder, and as to the pa
wages or damages or other sums due, as it thinks just:

(3.) Where the court might otherwise award damages for any
contract, it may, if the defendant be willing to give secur
satisfaction of the court for the performance by him of
of his contract as remains unperformed, with the conse
plaintiff, accept such security and order the performan
contract accordingly, in place either of the whole of the
which would otherwise have been awarded or some par
damages.

The security shall be an undertaking by the defendant a
more surety or sureties that the defendant will perform
tract, subject on non-performance to the payment of a
be specified in the undertaking.

Any sum paid by a surety on behalf of a defendant in re
a security under this act, together with all costs incurred
surety in respect of such security, shall be deemed to b
due to him from the defendant; and where such se
been given in or under the direction of a court of summ
diction, that court may order payment to the surety of
which has so become due to him from the defendant.

ion of the court, of the undertaking or condition by which 38 & 39 Vict.
is sum for which he is bound, in such manner and form as c. 90.
e prescribed by any rule for the time being in force, and in
se, where security is so given, the court may order payment
sum which may become due in pursuance of such security.
the same section, the Lord Chancellor may at any time after
sing of this act, and from time to time make, and, when
rescind, alter and add to rules with respect to giving security
this act.

mary Proceedings.] Section 9 enacts that, any dispute or
in respect of which jurisdiction is given by this act to a
of summary jurisdiction is to be deemed to be a matter on
the court has authority by law to make an order on com-
in pursuance of the 11 & 12 Vict. c. 43, but is not to be
d to be a criminal proceeding; and all the powers conferred
act are to be deemed to be in addition to, and not in deroga-
f, any powers conferred on it by the 11 & 12 Vict. c. 43,
that a warrant is not to be issued under that act for appre-
g any person other than an apprentice for failing to appear
wer a complaint in any proceeding under this act; and that
ler made by the court under this act for the payment of any
y is not to be enforced by imprisonment, except in the man-
d under the conditions provided in this act; and that no
or chattels are to be taken under a distress which might not
ten under an execution issued by a county court.

ment by Instalments.] The same section empowers the court
ect any sum of money for the payment of which it makes an
to be paid by instalments, and from time to time to rescind or
such order.

ry payable under an Order to be deemed a Debt.] The same
n, also, directs that any sum payable under an order is to be
ed a debt in pursuance of a judgment of a competent court,
n the meaning of the 5th section of the Debtors Act, 1869,
may be enforced accordingly.

e Lord Chancellor has, by the same section, power conferred
him to make, rescind, &c. rules for carrying into effect the
diction given by this act to a court of summary jurisdiction.

Rules for carrying into effect the Jurisdiction given to Courts of Summary Jurisdiction in England, by the Employers and Workmen Act, 1875, 38 & 39 Vict. c. 90.

A person desirous to enter an action under the Employers and
kmen Act, 1875, shall deliver to the clerk of the court par-
lars in writing of his cause of action, and the clerk of the court
l enter in a book to be kept for this purpose in his office a plaint

38 & 39 Vict. c. 90.

in writing stating the names and the last known places of the parties, and the substance of the action intended to be and thereupon a summons shall be issued according to th the schedule, and be served upon the defendant, not less clear day before the day on which the court shall be h which the cause is to be tried; and no misnomer or in description of any person or place in any such plaint or shall vitiate the same, so that the person or place be th scribed so as to be commonly known.

2. The particulars shall be annexed to and be deemed p summons.

3. Such summons may issue in any district in which th dant or one of the defendants dwelt, or carried on his bu was employed at the time the cause of action arose.

4. Any summons which may be required to be served o district of the court from which the same shall have issued served by an officer of any other court of summary juri which service shall be proved by affidavit of the officer wh the summons.

5. The service of the summons shall be either personal delivering the same to some person apparently sixteen ye at the house or place of dwelling, or place of business or of ment of the defendant, or at the office of the employer for t being of the defendant.

Hearing.

6. No notice shall be required to be given by a defendant set-off or counter-claim that he may wish to advance at the against the claim of the plaintiff.

7. If upon the day of the return of any summons, or at an tinuation or adjournment of the said court, the plaintiff sh appear, the cause shall be struck out, and the court may a the defendant, by way of costs and satisfaction for his atten such sum as it in its discretion shall think fit.

8. If on the day named in the summons, or at any contin or adjournment of the court, the defendant shall not ap sufficiently excuse his absence, or shall neglect to answe called into court, the court upon due proof of service of th mons, may either adjourn the cause from time to time or to the hearing of the cause on the part of the plaintiff on the judgment thereupon shall be as valid as if both part attended; provided that the court in any such case, at the any subsequent court, may set aside any judgment so give absence of the defendant, and the execution thereupon, a grant a new trial upon such terms, if any, as it may think

Judgment Summons.

No order of commitment under the Debtors Act, 1869, shall 38 & 39 Vict. c. 90.
ade unless a summons to appear and be examined on oath, nafter called a judgment summons, shall have been personally d upon the judgment debtor, which service when made out of istrict shall be proved by affidavit.

. A judgment summons may issue although no distress war- has been applied for.

. Every judgment summons shall be according to the form in schedule, and be served not less than two clear days from the on which the judgment debtor is required to appear, except judgment debtor is stated to be about to remove, or is keeping of the way to avoid service.

2. The hearing of a judgment summons may be adjourned from to time.

3. Any witness may be summoned to prove the means of the gment debtor, in the same manner as witnesses are summoned give evidence upon the hearing of a plaint.

4. An order of commitment made under the Debtors Act, 1869, ll be according to the form in the schedule, and shall on what- r day it may be issued bear date on the day on which the order commitment was made, and shall continue in force for one year m such date, and no longer.

5. When an order of commitment for non-payment of money is ued, the defendant may at any time before his body is delivered o the custody of the gaoler, pay to the officer holding such order amount indorsed thereon, as that on the payment of which he y be discharged; and on receiving such amount the officer shall charge the defendant and shall forthwith pay over the amount the clerk of the court.

16. The sum indorsed on the order of commitment as that upon yment of which the prisoner may be discharged, may be paid to e clerk of the court from which the commitment order was issued, to the gaoler in whose custody the prisoner is. Where it is paid the clerk he shall sign and seal a certificate of such payment, d upon receiving such certificate by post or otherwise the gaoler whose custody the prisoner shall then be shall forthwith dis- arge such prisoner. And where it is paid to the gaoler, he shall, pon payment to him of such amount together with costs sufficient pay for transmitting by post office order or otherwise, such nount to the court under the order of which the prisoner was mmitted, sign a certificate of such payment, and discharge the risoner.

17. A certificate of payment by a prisoner shall be according to he form in the schedule.

38 & 39 Vict. c. 90.

18. All costs incurred by the plaintiff in endeavouri an order shall be deemed to be due in pursuance o under sect. 5 of the Debtors Act, 1869, unless the cour wise order.

Costs.

19. The costs to be paid in the first instance by any ing the assistance of the court, shall be those cont schedule B. to these rules annexed.

20. The court may in its discretion allow any party any expense he may have incurred in the employment any sum not exceeding 10*s*. where the sum claimed and not exceeding 15*s*. where it exceeds £5.

Forms.

21. The forms given in the schedule shall be us variations as may be necessary to meet the circumst court.

13th August, 1875.

The forms to be used under the act will be fo "*Formulist*," 6th ed., pp. 766—774.

By a note at the foot of Form 1 it is declared that, other summonses issued under "The Employers a Act, 1875," may be signed by the clerk to the justice justices shall by a general direction authorize their c them in lieu of one of themselves.

EXCISE.

Complaints of Overcharge by Excise.] These may justices (4 & 5 Will. 4, c. 51, s. 27); and an appeal quarter sessions from their determination by 28 & 2 s. 25, where the sum in dispute does not exceed £50.

23 & 24 Vict. c. 114.

Spirits and Licence.] Three justices may grant a c applicant for a licence, to keep or use a still for makin spirits, is a person of good character, and that the p the yearly value of £10 (23 & 24 Vict. c. 114, s. 9). missioners refuse to grant the licence, they are to state in writing to the justices (s. 10).

Upon oath made of grounds to suspect any priva still or private distillation, a justice may grant a war open the suspected house and to seize such stills, (s. 48).

A justice upon information upon oath that spirits disposed of in any gaol, &c. may enter and search, or warrant any constable to enter and seize the same (s.

EXPLOSIVE SUBSTANCES.

The Explosives Act, 1875" (38 Vict. c. 17), is now the statute 38 Vict. c. 17.
h regulates the manufacture, keeping and transmission of ex-
ive substances; and with the view of ensuring the convenience
safety of the public, the local authorities are armed with certain
rs of a highly beneficial character. It will be convenient to
der the subject under the following heads:—

I. *The Local Authority and their General Powers.*
I. *Applications for and Grant of Licences for Factory or Magazine.*
I. *Application for a Licence for a Gunpowder Store.*
V. *Application for Registration of Premises for keeping Gunpowder.*
V. *Registration of Store Licences and Registered Premises.*
II. *Application for a small Firework Factory Licence.*
II. *As to other Explosives.*
II. *Expenses of Local Authority.*

I. *The Local Authority and their General Powers.*

By sect. 67 the local authority for the purposes of the act are to
—

(1) In the city of London, except as hereafter in this section mentioned, the Court of the Lord Mayor and Aldermen of the said city; and
(2) In the Metropolis (that is, in places for the time being within the jurisdiction of the Metropolitan Board of Works under "The Metropolis Management Act, 1855,"), except the city of London, and except as hereafter in this section mentioned, the Metropolitan Board of Works; and
(3) In any borough in England which is not assessed to the county rate of any county by the justices of such county, except as hereafter in this section mentioned, the mayor, aldermen and burgesses acting by the council; and
(4) In any harbour within the jurisdiction of a harbour authority, whether situate or not within the jurisdiction of any local authority before in this section mentioned, the harbour authority to the exclusion of any other local authority; and
(5) In any place in which there is no local authority as before in this section defined, the justices in petty sessions assembled.

Power of certain Local Bodies to become a Local Authority.] The
68th section enables the council of any borough which is assessed
n the county rate of any county, and the commissioners of any

38 Vict. c. 17. improvement district, by an order of a secretary of sta
application, to become a local authority for the pur
act.

Duty of Local Authority and Power of Officer.] The
enacts that, "It shall be the duty of every local autho
into effect within their jurisdiction the powers vested i
the act, and powers are conferred upon any officer
authority to enter, inspect and take samples from a
within the operation of the act.

Power of Local Authority to provide Carriages and
By sect. 71, every harbour authority and canal compan
to any other powers, is to have power to provide carria
boats for the conveyance, loading or unloading of
within the jurisdiction of such authority or compa
charge a reasonable sum, fixed by a bye-law, for the
carriage, ship or boat.

Provision of Magazines by Local Authority.] The
contains provisions for enabling certain local author
magazines, and for acquiring land for the purpose.

II. *Applications for and Grant of Licences for Factory*

Gunpowder to be manufactured only at a Factory law
or licensed under this Act.] The 4th section enacts th
facture of gunpowder shall not, nor shall any pro
manufacture, be carried on except at a factory for gun
lawfully existing or licensed for the same under this a
that nothing in this section is to apply to the makin
quantity of gunpowder for the purposes of chemical ex
not for practical use or for sale.

Gunpowder (except for private use) to be kept only in ex
Magazines or Store, or in Registered Premises.] The 5th
that gunpowder shall not be kept at any place excep
that is to say—

(1) Except in the factory (either lawfully existing o
the same under this act) in which it is manuf
(2) Except in a magazine or store for gunpowder ei
existing or licensed under this act for k
powder; or
(3) Except in premises registered under this act
gunpowder.

Provided that this section shall not apply.

(1) To a person keeping for his private use and not
powder to an amount not exceeding on the s
thirty pounds; or
(2) To the keeping of any gunpowder by a carrier or

for the purpose of conveyance, when the same is being conveyed or kept in accordance with the provisions of this act with respect to the conveyance of gunpowder. 38 Vict. c. 17.

lication for a Licence for a new Factory or Magazine.] An ant for a licence, before he can obtain the same from the local rity, must submit to the secretary of state a draft of a licence, panied by a plan of the proposed factory or magazine and the hereof, and it is to embody the terms which the applicant es to have inserted in the licence, and in the particulars the s matters set out in different sub-sections of the 6th section. secretary of state, after examination of the proposal, may the application altogether, or he may approve of the draft e, with or without modification or addition, and grant to the cant permission to apply to the local authority for their assent establishment of the factory or magazine on the proposed site.

plication for Assent of Local Authority to Site of new Factory or zine.] By sect. 7, the local authority, upon application being for their assent to the establishment of a new factory or zine on the proposed site, are to cause notice to be published by applicant, in manner directed by the act, of the application of the time and place at which they will be prepared to hear the cant; and any person objecting to such establishment, who have less than seven clear days before the day of hearing sent to the of the local authority and to the applicant of their intention to ar and object, with their name, address and calling, and a short ment of the grounds of their objection.

pon the hearing of the application, or any adjournment thereof, local authority may dissent altogether from the establishment of new factory or magazine on the proposed site, or assent thereto er absolutely or on any conditions requiring additional restric- s or precautions.

Where the site of the proposed factory or magazine is situate within within one mile of the limits of the jurisdiction of any urban sani- y authority, or of any harbour authority, the applicant is to serve such authority, if they are not the local authority, notice of the lication, and of the time and place of hearing fixed by the local thority. The notices are to be published and served by the appli- t not less than one month before the hearing.

The local authority are to fix the time and place of hearing as soon practicable after application made to them, and the time so fixed to be as soon as practicable after the expiration of the said month m the publication and service of the notices by the applicant, and ir final decision is to be given as soon as practicable after the piration of such month.

The place so fixed is to be situate within the jurisdiction of the

38 Vict. c. 17. local authority, or within a convenient distance of the lin jurisdiction.

The costs of any objection, which the local authority to be frivolous, are to be ascertained by an order made b authority, and are to be a debt due from the objector to cant, of which such order is to be conclusive evidence.

Where the site of the proposed factory or magazine partly within the jurisdiction of one local authority and par the jurisdiction of another, the assent of both local autho be applied for in the manner provided by the act.

Grant and Confirmation of Licence.] By sect. 8, if, on th of the application for the establishment of a factory or the local authority assent thereto either absolutely or on submitted to by the applicant, he is to be entitled to t applied for in accordance with the draft approved by the of state, with the addition (if the assent was on conditio additional restrictions and precautions required by those c

Appeal to the Secretary of State.] If the local authority any conditions not submitted to by the applicant, or di applicant may appeal to the secretary of state, giving notic appeal to the local authority, and requiring them to state i their reasons for such conditions or dissent; and the sec state, after considering the reasons (if any) so stated, and a inquiry, local or otherwise, as he may think necessary, ma local authority dissented, refuse the licence, or may in ei grant the licence applied for in accordance with the drai either as previously approved by him, or with such modi and additions as he may consider required to meet the (if any) so stated by the local authority.

The secretary of state, when satisfied that the factory or m is sufficiently completed according to the licence to justify thereof, is to confirm the licence, but, until so confirmed, th is not to come into force.

The land forming the site, bounded as described in the is, with every unused building and work thereon, for whatev pose, to be deemed to be the factory or magazine referred t licence.

III. *Application for a Licence for a Gunpowder Store.*

Store Licence to be obtained from the Local Authority.] 15th section, any person may apply for a licence for a gun store to the local authority at the time and place appointed b authority, stating his name, address and calling, the prop and construction of the store, and the amount of gunpow proposes to store therein; and the local authority are, as

38 Vict. c. 17.

able, if the proposed site, construction of the store, and
of gunpowder are in accordance with the order in council
mentioned, to grant to the applicant on payment of such
exceeding 5s., as may be fixed by that authority, the licence
for.

in Council prescribing the Situation and Construction of Stores.]
th section enacts that the Queen, by order in council, may—

Regulate the construction and materials and fittings of gunpowder stores; and

Prescribe the buildings and works from which gunpowder stores are to be separated, and the distances by which they are to be separated; and

Prescribe the maximum amount of gunpowder, not exceeding two tons, to be kept in stores, graduated according to their construction and situation, and their distance from the said buildings and works.

Licences Renewable and not Transferable.] By sect. 18, a licence is to be valid only for the person named in it, and the circumstances have so changed that the grant of a new would not be authorized by the act) is to be renewed annually dorsement.

licences are to be in the form directed by the Secretary of

Application for Registration of Premises for keeping Gunpowder.

sect. 21, a person desirous of registering with the local rity any premises for the keeping of gunpowder, is to register ame and calling, and the said premises (in the act referred to registered premises) in such manner, and on payment of such not exceeding 1s. as may be directed by the local authority. registration is to be valid only for the person registered, and be annually renewed. The 22nd section contains a body of to be observed by the occupier of registered premises.

V. *Registration of Store Licences and Registered Premises.*

The 28th section enacts, that the local authority shall cause re- of all store licences granted by, and all premises registered them under this act to be kept in such form and with such iculars as they may direct.

The local authority are, when so required by the secretary of to send to him within the time fixed by such requisition a of such register, or any part thereof, and in default the clerk such authority, and also the authority, if they are in fault, are to able to a penalty.

Right of Inspection of Registers.] A ratepayer within the area of

38 Vict. c. 17. the local authority, and a licensee, or person registered upon payment of a fee of 1*s.*, and a government in officer appointed by any local authority for the purp and an officer of police, without payment, are to be reasonable times to inspect and take copies of or ext register kept in pursuance of the 28th section.

Provision in case of Death, &c. of Occupier of Stor Premises.] By the 29th section, if the occupier of a sto premises dies or becomes bankrupt, or has his affair arrangement, or becomes mentally incapable, or othe the person carrying on the business of such occupie liable to any penalty or forfeiture under this act fo the business and acting under the licence or regis such reasonable time as may be necessary to allow a store licence from, or to register with, the local that he otherwise conforms with the provisions of th

VI. *Application for a small Firework Factory*

By sect. 49, any person may apply for a small fi licence to the local authority at the time and place such authority, stating his name, address and calling posed site and construction of the factory, and th description of explosive he proposes to have there building therein; and the local authority, as soon if the proposed site, construction of the factory and plosive is in accordance with the order in council re firework factories, grant to the applicant on payme not exceeding 5*s.*, as may be fixed by that authori applied for.

Orders in Council as to small Firework Factories section provides for the making of orders in cou small firework factories.

Renewal, &c. of Licence.] A small firework fa valid only for the person named in it; and the pro act with respect to the renewal, expiration and licence and fees for such renewal, and to special regulation of persons managing or employed in o shall apply in like manner as if they were herein e terms made applicable to small firework factory lice firework factories respectively.

By sect. 48, a firework factory is not to be deeme work factory if there is upon the same factory at the

(*a.*) More than one hundred pounds of any explos manufactured fireworks and coloured fires a

(*b.*) More than five hundred pounds of manufactu either finished or partly finished; or

More than twenty-five pounds of coloured fires or stars, not 33 Vict. c. 17.
made up into manufactured fireworks.

occupier of a small firework factory is not to be required to
a licence under Part I. of the act for such factory if he has
d a licence from the local authority under this part of the

VII. *As to other Explosives.*

isions as to Gunpowder to apply to other Explosives.] Sect. 39
s that, subject to the provisions thereafter contained, Part
the act relating to gunpowder is to apply to every other de-
on of explosive, in like manner as if those provisions were
re-enacted with the substitution of that description of ex-
e for gunpowder.

rpretation of the term "Explosives."] The 3rd section
s, that the term "explosive"—

Means gunpowder, nitro-glycerine, dynamite, gun-cotton, blasting powders, fulminate of mercury or of other metals, coloured fires, and every other substance, whether similar to those above mentioned or not, used or manufactured with a view to produce a practical effect by explosion or a pyrotechnic effect; and

Includes fog-signals, fireworks, fuzes, rockets, percussion caps, detonators, cartridges, ammunition of all descriptions, and every adaptation or preparation of an explosive as above defined.

VIII. *Expenses of Local Authority.*

sect. 70, "all expenses incurred by any local authority in
ying into effect the execution of this act, including the salary
expenses of any officer directed by them to act under this act,
l be paid out of the local rate. The local rate shall, for the
pose of this act, mean as follows: that is to say—

the city of London, the consolidated rate:

the metropolis (exclusive of the city of London), the consolidated rate as levied in the metropolis, exclusive of the city of London, and without any demand on such city:

a borough, the borough fund or borough rate:

a harbour, any monies, fund or rate applicable or leviable by the harbour authority for any harbour purposes:

any place where the justices in petty sessions are the local authority, the county rate; and

In an improvement district, any fund, money or rate, applicable or leviable by the improvement commissioners for any purposes of improvement within their district;

38 Vict. c. 17. And the local rate, or any increase of the local
withstanding any limitation in any act, be
purposes of this act."

[For the Forms applicable to this subject, see Oke
6th ed., pp. 156, 158.]

FAIRS.

31 & 32 Vict. c. 51; 34 Vict. c. 12. There are two general acts as to fairs,—"The Fa
(31 & 32 Vict. c. 51), as to altering the days for hol
"The Fairs Act, 1871" (34 Vict. c. 12), as to
fairs. The 31 & 32 Vict. c. 106, relates to fairs in
police district.

*Justices' Representation to Home Secretary to alter
a Fair—Publication of Home Secretary's Order.*] I
c. 51 (which recites, that "it is expedient to ma
facilitate the alteration of the days upon which
held in England and Wales"), sect. 3, "in case it
the secretary of state for the home department, u
tion duly made to him by the magistrates of any
district within which any fair is held, or by the ow
fair in England or Wales,—that it would be for
and advantage of the public that any such fair shal
year on some day or days other than that or those
fair is used to be held, it shall be lawful for the s
state for the home department to order that such fa
on such other day or days as he shall think fit:—p
that notice of such representation, and of the tim
please the secretary of state for the home departm
same into consideration, shall be published once
Gazette and in three successive weeks in some on
newspaper published in the county, city, or boroug
fair is held, or if there be no newspaper published
the newspaper of some county adjoining or near
such representation is so considered." By sect. 4
soon as any such order as aforesaid shall have be
secretary of state for the home department, notice
the same shall be published in the London Gazette
newspaper of the county, city, or borough in wh
usually held, or if there be no newspaper publish
in the newspaper of some county adjoining or ne
thereupon such fair shall only be held on the day
place mentioned in such order;—and it shall be
owner of such fair to take all such toll or tolls, an
act or acts, and to enjoy all and the same righ
privileges in respect thereof, and enforce the sam
like remedies as if the same were held on the da

at the place at which it was used to be held previous to ing of such order." 31 & 32 Vict. c. 51.

Representation to Home Secretary to abolish Fair—Publi- f Home Secretary's Order.] By 34 Vict. c. 12 (which recites 34 Vict. c. 12. certain of the fairs held in England and Wales are unneces- the cause of grievous immorality, and are very injurious inhabitants of the towns in which such fairs are held, and it ure expedient to make provision to facilitate the abolition fairs"), sect. 3, "in case it shall appear to the secretary of the home department, upon representation duly made to the magistrates of any petty sessional district within which is held,—or by the owner 45 of any fair in England or —that it would be for the convenience and advantage of the that any such fair shall be abolished, it shall be lawful for secretary of state for the home department, with the consent in writing of the owner for the time being of such of the tolls or dues payable in respect thereof, to order that ir shall be abolished accordingly:—provided always, that of such representation, and of the time when it shall please retary of state for the home department to take the same sideration, shall be published once in the London Gazette, three successive weeks in some one and the same newspaper hed in the county, city or borough in which such fair is held, here be no newspaper published therein, then in the news- of some county adjoining or near thereto, before such repre- ion is so considered." By sect. 4, "When and so soon as ch order as aforesaid shall have been made by the secretary for the home department, notice of the making of the same be published in the London Gazette, and in some one news- of the county, city, or borough in which such fair is usually or if there be no newspaper published therein, then in the per of some county adjoining or near thereto,—and there- such fair shall be abolished."

FIRE BRIGADE OF THE METROPOLIS.

Expenses of Brigade when employed beyond the Metropolis.] By 28 & 29 Vict. 28 & 29 Vict. c. 90, "The Metropolitan Fire Brigade Act, 1865," c. 90. s. 30, the Metropolitan Board of Works, when occasion requires, permit any part of the Fire Brigade Establishment, with their gines, escapes, and other implements, to proceed beyond the

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Definition of "Owner."]—The term "owner" means any person or sons, or body of commissioners or body corporate, entitled to hold any , whether in respect of the ownership of any lands or tenements, or der any charter, letters patent, or act of parliament, or otherwise how- ever (31 & 32 Vict. c. 51, s. 2; 34 Vict. c. 12, s. 2).

28 & 29 Vict. c. 90.

limits of the metropolis, 46 for the purpose of extin
"In such case the owner and occupier of the prop
fire has occurred shall be jointly and severally liab
the expenses that may be incurred by the fire briga
the fire, and shall pay to the board a reasonable
attendance of the fire brigade and the use of their e
and other implements. In case of difference betw
and the owner and occupier of such property, or eith
amount of the expenses, as well as the propriety of
attending such fire (if the propriety thereof be disp
summarily determined by two justices [and an order
In default of payment, any expenses under this
recovered by the board in a summary manner" [als
justices in manner directed by the act 11 & 12 Vic
pp. 127, 128), or any act amending the same" (s. 24

FISH AND FISHERIES.

24 & 25 Vict. c. 109.

Recovery of Damage occasioned to Dam by a Fi
24 & 25 Vict. c. 109, s. 23, after providing for
damaging a fish pass, &c. (Offences 17—19, Vol. I.
may be erected with the written consent of the Hom
provides, "that if any injury is done to any dam b
affixing of a fish pass in pursuance of this section,
taining any loss thereby may recover compensation
in a summary manner from the person or body of pe
such fish pass has been affixed," *i. e.* by sect. 35, und
c. 43, within six months (Vol. I. p. 135), being t
penalties; but 28 & 29 Vict. c. 121, s. 59, provides,
pensation shall not be recovered unless the procee
tuted within two years after the time at which th
first affixed to the dam.

Search Warrant for Salmon, Nets, &c.] By sect.
upon an information on oath that there is probable
any breach of the provisions of this act to have bee
any premises, or any salmon illegally taken, or any
other engines to be concealed on any premises, m
authorize and empower any inspector, water baili
constable or police officer to enter such premises for
detecting such offence, or such concealed fish, at such
in the day or night, as in such warrant may be me
seize all illegal engines, or any salmon illegally take
found on such premises;—provided that no such war

46 The term "metropolis" is, by sect. 2, to mean the ci
all other parishes and places for the time being within t
the Metropolitan Board of Works. See 18 & 19 Vict. c.

in force for more than one week from the date thereof. [Forms, 3, 776, Oke's "*Formulist*," 6th ed.] 28 & 29 Vict. c. 121.

foregoing section is by the 9th section of "The Freshwater ries Act, 1878" (41 & 42 Vict. c. 39), made to apply as if the "salmon" included trout, char and all freshwater fish.

tice's Order to Water Bailiff to enter on Land.] By 28 & 29 c. 121, s. 31, "where it appears to any justice of the peace, on plication of any conservator or water bailiff made on oath, that conservator or bailiff has good reason to suspect that acts in vention of the Salmon Fishery Acts, 1861 and 1865, are being likely to be done on any land situate on or near to a salmon the justice may, by order under his hand, authorize such con- tor or bailiff, during a limited period, to be specified in such not exceeding twenty-four hours, to enter upon and remain ch land during any hours of the day or night for the purpose tecting the persons guilty of the aforesaid acts;—and no con- tor or water bailiff entering or remaining on any land in pur- ce of such order shall be deemed to be a trespasser; but this on shall not affect any other powers of search conferred by the on Fishery Acts, 1861 and 1865.

is recognizance to appeal to a superior court against a decision he special commissioners may be entered into before a justice, in such sum as the justice thinks fit (s. 45).

ieries in the River Thames and Isis.] See "The Thames Con- ancy Act, 1864," 27 & 28 Vict. c. 113, ss. 65, 66, 67, 76, 77; 29 & Vict. c. 89, s. 41

FISHING-BOATS.

y 25 & 26 Vict. c. 63, "The Merchant Shipping Act Amendment 1862," s. 13, certain specified provisions of "The Merchant pping Act, 1854," 17 & 18 Vict. c. 104, are to apply to "registered going ships exclusively employed in fishing on the coasts of the ited Kingdom." Under this the subject of revising lists of voters members of local marine boards, in tit. "*Merchant Shipping*," t, will apply;—also the following matters in tit. "*Seamen*," *post*, , "Recovery of Seamen's Wages" (except ss. 143, 145, and 149 155 upon "Evidence," &c., and s. 256, under the head of "De- ctions from Wages"), "Recovery of Master's Wages," "Recovery Allotment Notes," and "Repayment of Relief to Seamen's milies." 25 & 26 Vict. c. 63.

FOOD AND DRUGS (SALE OF).

Under "The Sale of Food and Drugs Act, 1875," powers are con- rred upon certain public bodies to appoint analysts of all articles f food and drugs sold within the limits for which they act, as llows: 38 & 39 Vict. c. 63.

Sect. 10. In the city of London and the liberties thereof, the com-

38 & 39 Vict. c. 63.

missioners of sewers of the city of London and thereof;

And in all other parts of the metropolis, the vestrie boards acting in execution of the act for the be ment of the metropolis;

The court of quarter sessions of every county; and

The town council of every borough having a sepa quarter sessions, or having under any general c parliament or otherwise, a separate police estab

may, as soon as convenient after the passing of this appointment has been hitherto made, and in all when vacancies in the office occur, or when required the Local Government Board, shall, for their respect tricts, counties or boroughs appoint one or more perso competent knowledge, skill and experience, as analysts of food and drugs sold within the said city, metropoli counties or boroughs, and shall pay to such analysts suc tion as shall be mutually agreed upon, and may remove as they shall deem proper; but such appointments shall at all times be subject to the approval of the L ment Board, who may require satisfactory proof of c be supplied with them, and may give their approval with modifications as to the period of the appointment or otherwise. Provided that no person shall hereafter an analyst for any place under this section, who shal directly or indirectly in any trade or business connec sale of food or drugs in such place."

FORCIBLE ENTRY AND DETAINER.

The proceedings by justices upon view, with the nece will be found in Burn's Just., not being within 11 & 1 but there is considerable difficulty in the practical a the statutes on the subject: and in the case of *Ex* (2 Dowl. 24), the court refused to grant a mandamus magistrate to proceed under them.

FOREIGN STATES.

33 & 34 Vict. c. 90.

"The Foreign Elistment Act, 1870," 33 & 34 Vict after enacting the offence of a master or owner of a shi board illegally enlisted persons, and the punishment pr *alia*), in sub-s. 2, that such ship shall be detained un and conviction or acquittal of the master or owner, penalties inflicted on the master or owner have been master or owner has given security for the payme penalties to the satisfaction of two justices of the pe

rate or magistrates having the authority of two justices of 33 & 34 Vict.
ce. [For offences under the act, see tit. "*Foreign States,*" c. 90.
, 1062.]

FORGERY.

h warrant for papers or implements and forged instruments,
Note 62, *ante*, p. 1087.

FRIENDLY SOCIETIES.

e Friendly Societies Act, 1875" (38 & 39 Vict. c. 60), by 38 & 39 Vict.
and schedule 1 repeals all the former statutes upon the c. 60.
, consolidating and amending the laws as applicable to such
s. The only section, however, which it is necessary to refer
his place is the 22nd, which provides, under certain circum-
, for the reference of disputes amongst the members to
s of the peace. That section enacts, that—

ery dispute between a member, or person claiming through
ber, or under the rules of a registered society and the society,
officer thereof, shall be decided in manner directed by the
f the society, and the decision so made shall be binding and
sive on all parties without appeal, and shall not be removable
y court of law or restrainable by injunction: and application
enforcement thereof may be made to the county court.

rided as follows:

Where the rules of a society direct that disputes shall be referred to justices, the dispute shall be determined by a court of summary jurisdiction.

Provided that in every case of dispute cognizable under the rules of a society by a court of summary jurisdiction, it shall be lawful for the parties thereto to enter into a consent referring such dispute to the county court which may hear and determine the matter in dispute.

Where the rules contain no directions as to disputes, or where no decision is made on a dispute within 40 days after application to the society for a reference under its rule, the member or person aggrieved may apply either to the county court, or to a court of summary jurisdiction which may hear and determine the matter in dispute."

GAME.

ences to deal in.] See *ante*, title "*Game,*" p. 1217.

ling Hares.] By 11 & 12 Vict. c. 29, s. 1, persons in the 11 & 12 Vict.
ation of inclosed lands, or owners entitled to the game, may c. 29.
hares by themselves without a [licence to kill game, 23 & 24

11 & 12 Vict. c. 29.

Vict. c. 90, s. 6], and if by another person, an author in the following form must be given :—

I, A. B., do authorize C. D. to kill hares on my land occupied by me, *as the case may be*], within the —— *insert the name of the parish or other place, as the case ma* this —— day of —— [*here insert the day, month and year*]. Witness ——.

[See also 23 & 24 Vict. c. 90, s. 5.]

By 11 & 12 Vict. c. 29, s. 2, such authority is not more than one person at one and the same time, and is to be delivered to the clerk to the magistrates sessions division within which the said lands are situ forthwith register the same, and the date of such reg book to be kept by him for such purpose, which boo all reasonable times open to the inspection of the commissioners for assessed taxes, or any of the coll such district. This authority is to be held good u first of February in the year following that within w is granted, unless the same be previously revoked, such revocation be given to the clerk to the magist said ;—and the said registered authority, or the unre thereof, shall be good and sufficient evidence of th person to whom authority is given by the same to ki the lands mentioned within the same, without havin annual [licence to kill game, 23 & 24 Vict. c. 90, s. 6 "*Formulist*," 6th ed. pp. 777, 778, for the mode of re form of Register Book, and Notice of Revocation of A

GROUND GAME ACT, 1880.

43 & 44 Vict. c. 47.

It may be convenient here to refer to the recent Gro (43 & 44 Vict. c. 47), entitled "An Act for the better Occupiers of Land against Injury to their Crops Game." The sections are as follows :

"1. *Occupier to have a Right inseparable from his Oc Ground Game concurrently with any other Person enti same on Land in his Occupation.*] Every occupier of la as incident to and inseparable from his occupation of right to kill and take ground game thereon, concurre other person who may be entitled to kill and take gr the same land : Provided that the right conferred on t this section shall be subject to the following limitation

"(1.) The occupier shall kill and take ground game self or by persons duly authorised by him in wr

(*a.*) The occupier himself and one other pers in writing by such occupier shall be the entitled under this act to kill groun firearms ;

(b.) No person shall be authorised by the occupier to kill or take ground game, except members of his household resident on the land in his occupation, persons in his ordinary service on such land, and any one other person bonâ fide employed by him for reward in the taking and destruction of ground game. 43 & 44 Vict. c. 47.

(c.) Every person so authorised by the occupier, on demand by any person having a concurrent right to take and kill the ground game on the land or any person authorised by him in writing to make such demand, shall produce to the person so demanding the document by which he is authorised, and in default he shall not be deemed to be an authorised person.

(2.) A person shall not be deemed to be an occupier of land for the purposes of this act by reason of his having a right of common over such lands; or by reason of an occupation for the purpose of grazing or pasturage of sheep, cattle, or horses for not more than nine months.

(3.) In the case of moorlands, and uninclosed lands (not being arable lands), the occupier and the persons authorised by him shall exercise the rights conferred by this section only from the eleventh day of December in one year until the thirty-first day of March in the next year, both inclusive; but this provision shall not apply to detached portions of moorlands or uninclosed lands adjoining arable lands, where such detached portions of moorlands or uninclosed lands are less than twenty-five acres in extent.

2. *Occupier entitled to kill Ground Game on Land in his Occupation to divest himself wholly of such Right.*] Where the occupier of land entitled otherwise than in pursuance of this act to kill and take ground game thereon, if he shall give to any other person a title to land take such ground game, he shall nevertheless retain and ve, as incident to and inseparable from such occupation, the same ht to kill and take ground game as is declared by section one of act. Save as aforesaid, but subject as in section six hereafter tioned, the occupier may exercise any other or more extensive ht which he may possess in respect of ground game or other game, the same manner and to the same extent as if this act had not ned.

3. *All Agreements in Contravention of Right of Occupier to destroy round Game void.*] Every agreement, condition, or arrangement ich purports to divest or alienate the right of the occupier as desired, given, and reserved to him by this act, or which gives to ch occupier any advantage in consideration of his forbearing to rcise such right, or imposes upon him any disadvantage in nsequence of his exercising such right, shall be void.

43 & 44 Vict. c. 47.

"4. *Exemption from Game Licences.*] The occupier and th duly authorised by him as aforesaid shall not be required a licence to kill game for the purpose of killing and takin game on land in the occupation of such occupier, and the shall have the same power of selling any ground game so him, or the persons authorised by him, as if he had a licen game: Provided that nothing in this act contained shal any person from the provisions of the Gun Licence Act, 1

"5. *Saving Clause.*] Where at the date of the passin act the right to kill and take ground game on any land by lease, contract of tenancy, or other contract bonâ fide valuable consideration in some person other than the occu occupier shall not be entitled under this act, until the de tion of that contract, to kill and take ground game on su And in Scotland when the right to kill and take ground vested by operation of law or otherwise in some person otl the occupier, the occupier shall not be entitled by virtue of to kill or take ground game during the currency of any contract of tenancy under which he holds at the passing of or during the currency of any contract made bonâ fide for consideration before the passing of this act whereby any otl son is entitled to take and kill ground game on the land.

"For the purposes of this act, a tenancy from year to ye tenancy at will, shall be deemed to determine at the tin such tenancy would by law become determinable if notice o ing to determine the same were given at the date of the pas this act.

"Nothing in this act shall affect any special right of kil taking ground game to which any person other than the l lessor, or occupier may have become entitled before the pas this act by virtue of any franchise, charter, or act of parlian

"6. *Prohibition of Night Shooting, Spring Traps above Gro Poison.*] No person having a right of killing ground game this act or otherwise shall use any firearms for the purpose o ing ground game between the expiration of the first hou sunset and the commencement of the last hour before sunris no such person shall, for the purpose of killing ground employ spring traps except in rabbit holes, nor employ p and any person acting in contravention of this section sh summary conviction, be liable to a penalty not exceedin pounds.

"7. *As to Non-Occupier having Right of killing Game.*] W person who is not in occupation of land has the sole right of k game thereon (with the exception of such right of killing taking ground game as is by this act conferred on the occupi incident to and inseparable from his occupation), such person

ie purpose of any act authorising the institution of legal pro- 43 & 44 Vict.
ngs by the owner of an exclusive right to game, have the c. 47.
authority to institute such proceedings as if he were such ex-
re owner, without prejudice nevertheless to the right of the
ier conferred by this act.

. *Interpretation Clause.*] For the purposes of this act,—the
: "ground game" mean hares and rabbits.

. *Exemption from Penalties.*] A person acting in accordance
this act shall not thereby be subject to any proceedings or
ties in pursuance of any law or statute.

0. *Saving of existing Prohibitions.*] Nothing in this act shall
rise the killing or taking of ground game on any days or
ns, or by any methods, prohibited by any act of parliament in
at the time of the passing of this act.

1. *Short Title.*] This act may be cited for all purposes as the
nd Game Act, 1880."

GAMING-HOUSES.

rrant to Enter.] By 8 & 9 Vict. c. 109, s. 3, any justice 8 & 9 Vict.
pt within the metropolitan police district, for which see s. 6] c. 109.
complaint on oath that there is reason to suspect any house,
, or place to be kept or used as a common gaming-house, may
authority by special warrant to any constable to enter, with
sary assistance, into such house, &c., and if necessary to use
, &c., and to arrest and bring before a justice all persons found
in. [Form of Warrant given by the act, Oke's "*Formulist*,"
8, 6th ed.]

stices may order instruments taken with the persons to be
royed (see s. 8).

GARDENS IN TOWNS.

Vict. c. 13, s. 6, incorporates sects. 225 to 288 of "The Metro- 26 Vict. c. 13.
Local Management Act, 1855" (18 & 19 Vict. c. 120), with it,
these sections relate to the ascertainment and recovery of
pensation, damages and expenses (made recoverable in a sum-
y manner) before two justices, where the amount does not ex-
£50.

GAS MEASURES.

uthority to Inspector to examine and test Meters.] By 22 & 23 22 & 23 Vict.
c. 66, s. 20, any inspector authorized in writing under the c. 66.
d of any justice, at the request and expense of any buyer or
er of gas, who shall have given twenty-four hours' notice in
ting to the other party to the contract, may at all reasonable
es enter any house or shop, store, warehouse, still, yard or place
atsoever, within his jurisdiction, where any meter, whether

22 & 23 Vict. c. 66.

stamped or unstamped, is fixed or used, and examine and same, and if necessary for such purpose remove such mete as little damage thereby as may be; and if it be inco fraudulent, it is not to be refixed or used again unless alte repaired, so as to measure and register correctly, and s [Form of Justices' Authorities, Oke's "*Formulist*," 6th ed.

GAS WORKS.

10 & 11 Vict. c. 15.

Act of 1847.] "The Gas Works Clauses Act, 1847," 1 Vict. c. 15, the extent of which is shown in Vol. I. *Note* 2 466, 467, provides for various matters being disposed of justices, viz.:—

Differences respecting plans of opening or breaking up drains, &c. by the undertakers for their works, to be determi two justices (s. 9).

Expenses of reinstating streets, drains, &c. to be recove damages (s. 12).

Rents due for gas, if less than £20, recovered as damages (

Expenses of examination and repair of waterworks fouled, gas of the undertakers, to be ascertained and recovered as da (ss. 26, 27, 28).

Damages are to be ascertained and recovered as under the S Vict. c. 20 (s. 48). See title "*Railways*," *post*.

34 & 35 Vict. c. 41.

Act of 1871.] "The Gas Works Clauses Act, 1871," 34 Vict. c. 41, is to be construed with the Act of 1847 as *one act* The following matters are authorized to be disposed of by just viz.:—

Two justices to determine amount of security to be given occupier to undertakers (s. 16).

Remuneration for hire of meters recoverable as rents or sums to undertakers for gas (s. 18). See sect. 40.

Differences as to the quantity of gas consumed may be de mined by two justices (s. 20).

Charges for gas may be recovered before one justice *after* su mons, and by distress (s. 23).

Two justices may appoint a gas examiner if local authority not, on application of consumers of gas (s. 30).

Costs of making experiments upon gas recovered before t justices (s. 37).

Rents due for gas, or rents or money due for the hiring or fixi of meters, or expenses incurred by the undertaker in cutting o the gas, may be recovered as penalties (s. 40); and by acti (s. 41).

Penalties, and all moneys and costs directed to be recovered a penalties, to be recovered in manner directed by the Act of 184 (s. 44). See Vol. I. tit. "*Gas Works*," *Note* **205**, pp. 473, 474.

GUNPOWDER. See "*Explosive Substances.*"

HABITUAL DRUNKARDS.

"Habitual Drunkards Act, 1879" (42 & 43 Vict. c. 19), 42 & 43 Vict. c. 19.
ng as it does upon justices a variety of duties consists, of the
ng sections and schedules:—

Interpretation. In this act—

The expression 'Secretary of State' means one of her Majesty's principal secretaries of state.

The expression 'summary conviction' means conviction before a court of summary jurisdiction.

ie expression 'Summary Jurisdiction Acts' means—

"(1.) As regards England, the act of the session of the eleventh and twelfth years of the reign of her present Majesty, chapter forty-three, intituled 'An Act to facilitate the performance of the duties of justices of the peace out of sessions within England and Wales with respect to summary convictions and orders,' and any act amending the same; and

"(2.) As regards Scotland, the Summary Procedure Act, 1864; and

"(3.) As regards Ireland, with reference to any matter or proceeding in the police district of Dublin metropolis, the acts regulating the powers and duties of justices of the peace for or the police of such district, and with reference to any matter or proceeding elsewhere in Ireland, the Petty Sessions (Ireland) Act, 1851, and the acts amending the same.

"The expression 'court of summary jurisdiction' means—

"(a.) As regards England and Ireland, any justice or justices of the peace to whom jurisdiction is given by the Summary Jurisdiction Acts; provided that the court when hearing and determining an information or complaint under this act shall be constituted either of two or more justices of the peace in petty sessions sitting at some place appointed for holding petty sessions, or of some magistrate or officer sitting alone or with others at some court or other place appointed for the administration of justice, and for the time being empowered by law to do alone any act authorized to be done by more than one justice; and

"(b.) As regards Scotland, the sheriff or his substitute.

"'Justice' means a justice or justices of the peace, metropolitan police magistrate, stipendiary or other magistrate by whatever name called, having jurisdiction under the Summary Jurisdiction Acts in the place

42 & 43 Vict. c. 19.

where the matter requiring the cognizance arises.

"'A retreat' means a house licensed by th authority named by this act, for the recepti care, and curative treatment of habitual di

"'Habitual drunkard' means a person who amenable to any jurisdiction in lunacy, standing, by reason of habitual intempera of intoxicating liquor, at times dangerous or herself or to others, or incapable of man self or herself, and his or her affairs.

"4. *Incorporation of Schedules with Forms and Rul* The schedules to this act, with the notes and directio shall have effect as part of this act; and the rules in those schedules and the forms therein given, or the like effect, shall be observed, with such variations stances require, by the persons, for the purposes, and in t therein indicated; but no instrument made in execution execution of this act shall be invalidated for defect in for

"5. *Local Authority and Clerk of Local Authority.*] T bodies and officers mentioned in the second and third respectively of the First Schedule to this act shall be authority and clerk of the local authority respectively act, in reference to the several corresponding districts me the first column of the said schedule.

Retreats.

"6. *Establishment of Retreats.*] The local authority ject to any conditions which such local authority shall grant to any person, or to two or more persons jointly, for any period not exceeding thirteen months to keep and may, from time to time, revoke or renew such licen application for such license shall be in the Form No. Second Schedule hereto, or to the like effect. The lice be in the Form No. 2 in the same schedule, or to the li One at least of the persons to whom a license is gran reside in the retreat and be responsible for its manage duly qualified medical man shall be employed as medical of such retreat, provided that when the name of the licen be on the medical register he may himself act as such attendant.

"7. *To whom License not to be given.*] No license shall to any person who is licensed to keep a house for the rec lunatics.

"8. *Power of Local Authority to transfer License.*] licensee of any retreat becomes incapable, from sickness

of keeping such retreat, dies, or becomes bankrupt, or 42 & 43 Vict. c. 19.
is affairs liquidated by arrangement, or becomes mentally
ible or otherwise disabled, the local authority, by writing
their hands, indorsed on the license, may transfer the license
ther person, if the local authority, in its discretion, shall
fit.

. *Removal of Habitual Drunkard from Unfit Habitation.*] If
treat becomes unfit for the habitation of the persons detained
n under this act, or otherwise unsuitable for its purpose, the
authority or the inspector of retreats appointed under this
all order their discharge from such retreat on a day to be
ned in the order. Such order shall be signed by the clerk
s local authority or by the inspector, as the case may be.

tice of such Removal.] The licensee of the retreat from
such persons or person are to be so removed shall, with all
icable speed, send by post a copy of such order to the person
hom the last payment for each person so to be removed from
treat was made, or one at least of the persons who signed the
tory declaration under section ten of this act.

0. *Persons may be admitted to Retreats on their own Appli-*
.] Any habitual drunkard desirous of being admitted into
eat may make application in writing to the licensee of a
t for admission into such retreat, and such application shall
the Form No. 3 in the Second Schedule hereto, and shall
the time during which such applicant undertakes to remain
ch retreat. Such application shall be accompanied by the
tory declaration of two persons to the effect that the applicant
habitual drunkard within the meaning of this act.

e signature of the applicant to such application shall be
ed by two justices of the peace, and such justices shall not
t the signature unless they have satisfied themselves that the
icant is an habitual drunkard within the meaning of this act,
have explained to him the effect of his application for admis-
into a retreat and his reception therein, and such justices shall
e in writing, and as a part of such attestation, that the appli-
understood the effect of his application for admission and his
ption into the retreat.

ch applicant, after his admission and reception into such
eat, unless discharged or authorized by license as hereinafter
vided, shall not be entitled to leave such retreat till the ex-
tion of the term mentioned in his application, and such
licant may be detained therein till the expiration of such term;
vided that such term shall not exceed the period of twelve
endar months.

'11. *Licensees of Retreats to send Notice of Reception.*] Every
nsee of a retreat under this act shall, within two clear days

42 & 43 Vict. c. 19.

after the reception of any person received therein unde
send a copy of the application of such person for admis
which such person is so received by any such licensee, to
of the local authority and to the secretary of state.

"12. *Power of Discharge.*] Any person admitted into a
under this act may, at any time thereafter, be discharg
order of a justice, upon the request in writing of th
of the retreat, if it shall appear to such justice to be r
and proper.

Inspection of Retreats.

"13. *Inspector and Assistant Inspector of Retreats may
pointed by the Secretary of State.*] The secretary of state m
time to time appoint such person as he shall think fit, w
hold office during his pleasure, and shall be styled "the i
of retreats."

The secretary of state may also, if it appears to him an
commissioners of her Majesty's treasury necessary for
execution of this act, from time to time appoint a fit
as "assistant inspector of retreats," who shall also hol
during his pleasure, and every person so appointed sha
such of the powers and duties of the inspector of retreats
secretary of state may from time to time prescribe.

"The secretary of state may assign to the inspector of r
and assistant inspector of retreats such salaries or remun
and allowances as he may, with the consent of the commis
of her Majesty's treasury, think proper; the said salaries,
neration, and allowances, and the expenses of the inspect
retreats, and assistant inspectors of retreats, in carrying o
provisions of this act, to such amount as is allowed by the
missioners of her Majesty's treasury, shall be paid out of m
provided by parliament in that behalf.

"14. *License to bear Stamp—Fees to be accounted for t
Authority.*] Every license granted in pursuance of this act
be subject to a duty, and be impressed with a stamp of
pounds, and ten shillings for every patient above ten whom
intended to admit into the retreat, and every renewal
license shall be impressed with a stamp of the same am
The said sums shall be deemed to be stamp duties and be
the management of the commissioners of inland revenue;
all enactments for the time being in force relating to stamp d
and to dies, plates, and other implements provided for the
pose of stamp duties, including all enactments relating to fo
and frauds relating to stamp duties, shall apply accordingly.
expense incurred by the local authority in connexion with
application for the granting, renewing, or transferring of a

, shall be borne by the applicant, together with the stamp e for the license; and all fees for licenses and for searches, , under this act, shall be paid over to the clerk for the nthority. 42 & 43 Vict. c. 19.

. *Inspection of Retreats.*] Every retreat shall, from time to and at least twice in each year, be inspected by the tor or assistant inspector of retreats. The secretary of may at any time, on the recommendation of the inspector istant inspector of retreats, or in his own discretion, order scharge of any person detained in any retreat.

6. *Annual Return by Inspector.*] The inspector of retreats in the month of January in each year, present to the ary of state a general report setting forth the situation of retreat, the names of the licensees, and the number of nal drunkards who have been admitted and discharged or have died during the past year, with such observations as hall think fit as to the results of treatment and the con- n of the retreats. The secretary of state shall lay such rt. together with the rules, before parliament.

17. *Rules as to Management of Retreats.*] The secretary of state from time to time make rules for the management of a retreat, may from time to time cancel or alter such rules.

Any person who contravenes or fails to comply with any of such s for the management of a retreat shall be deemed to be guilty n offence against this act.

A printed copy of rules purporting to be the rules of a retreat, ed by the inspector or assistant inspector of retreats, shall be lence of such rules of the retreat.

18. *Judge of High Court of Justice, &c. may make Orders to pect.*] A judge of the high court of justice, on an application, parte at chambers, or a county court judge, within whose rict the retreat is situated, may at any time, by order under his nd, authorise and direct any person or persons to visit and amine a person detained in a retreat under this act, and to inquire o and report on any matters which such judge may think fit in ation to the person so detained. The judge, on receiving such port, may, if he shall think fit, order the discharge of any person detained from any such retreat.

Leave of Absence from Retreat.

19. *Permission that Person detained may reside out of Retreat.*] a justice of the peace, at the request of a licensee of a retreat, ay, at any time after the admission into a retreat of an habitual drunkard, by license under his hand permit such habitual drunkard o live with any trustworthy and respectable person named in the

42 & 43 Vict. c. 19.

license willing to receive and take charge of him
time for the benefit of his health.

"Such a license shall not be in force for more tha
but may at any time before the expiration of t
renewed for a further period not exceeding two m
from time to time until the habitual drunkard's peric
has expired.

"20. *Absence to be reckoned in Time of Detentio*
during which an habitual drunkard is absent from a
such a license shall, except where the license is forfei
as hereinafter provided, be deemed to be part of th
detention in such retreat. Where such license i
revoked, the time during which such habitual dru
absent from the retreat shall be excluded in compu
during which he may be detained in the retreat.

"21. *Habitual Drunkard may forfeit Leave of A*
habitual drunkard absent from a retreat under s
who escapes from the person in whose charge he
aforesaid, or who refuses to be restrained from dri
cating liquors, shall be considered ipso facto to hav
license, and may be taken back to the retreat as herein
An unauthorised absence from a retreat of a person
detained therein shall not be excluded in comput
during which he may be detained.

"22. *Revocation of Leave of Absence.*] Any such l
revoked at any time by the secretary of state o
mendation of the inspector or assistant inspector
by the justice of the peace by whom such license m
granted, by writing under his hand, and thereupon
drunkard to whom the license related shall return to

Offences.

"23. *Offences by Licensees of Retreats.*] If any li
retreat knowingly and wilfully fails to comply with
of this act, or neglects or permits to be neglected
drunkard placed in the retreat in respect of which
or does anything in contravention of the provisions
shall be deemed guilty of an offence against this act.

"24. *Offences by Officers, Servants, and other Pers*
person does any of the following things,—

"(1.) Ill-treats, or, being an officer, servant, or
employed in or about a retreat, wilfully
habitual drunkard detained in a retreat;

"(2.) Induces or knowingly assists an habitual drun
in a retreat to escape therefrom;

"(3.) Without the authority of the licensee or the
of the retreat (proof whereof shall lie on hi

any retreat, or, without the authority of the medical officer of the retreat, except in case of urgent necessity, gives or supplies to any person detained therein, any intoxicating liquor, or sedative narcotic, or stimulant drug, or preparation, 42 & 43 Vict. c. 19.

l be deemed guilty of an offence against this act.

. *Offences by Habitual Drunkards while detained in Retreats.*] habitual drunkard, while detained in a retreat, wilfully z or wilfully refuses to conform to the rules thereof, he e deemed guilty of an offence against this act, and shall le upon summary conviction to a penalty not exceeding five , or, at the discretion of the court, to be imprisoned for any not exceeding seven days, and at the expiration of his nment (if any) for such offence he shall be brought back retreat, there to be detained for curative treatment until piration of his prescribed period of detention in the retreat, reckoning such period the time during which such person prison shall be excluded from computation.

. *Apprehension of Habitual Drunkard escaping from Retreat.*] habitual drunkard escapes from a retreat, or from the person ne charge he has been placed under license as hereinbefore ned, it shall be lawful for any justice or magistrate having iction in the place or district where he is found, or in the or district where the retreat from which he escaped is situate, the sworn information of the licensee of such retreat, to a warrant for the apprehension of such habitual drunkard y time before the expiration of his prescribed period of ion; and such habitual drunkard shall, after apprehension, ought before a justice or magistrate, and may, if such justice gistrate should so order, be remitted to the retreat from which d so escaped.

7. *Proceedings on Death of Person detained.*] In case of the of any person detained in any retreat a statement of the of the death of such person, with the name of any person nt at the death, shall be drawn up and signed by the principal al attendant of such retreat, and copies thereof, duly certified iting by the licensee of such retreat, shall be by him trans- d to the coroner and to the registrar of deaths for the district, to the clerk of the local authority, and to the person by whom st payment was made for the deceased, or one at least of the ons who signed the statutory declaration under section ten of Act.

Penalty for Neglect or Omission.] Every medical attendant who l neglect or omit to draw up and sign such statement as afore- , and every licensee of a retreat who shall neglect or omit to

42 & 43 Vict. c. 19.

certify and transmit such statement as aforesaid, s
guilty of an offence against this act.

"28. *Penalty for Offence against Act.*] Any perso
habitual drunkard detained in a retreat, who is guil
against this act, to which no other penalty is a
liable, on summary conviction, to a penalty not ex
pounds, or, at the discretion of the court, to be
any term not exceeding three months with or witho

"29. *Summary Jurisdiction Acts.*] The Summa
Acts shall apply to all offences in respect of which
given to any court of summary jurisdiction by thi
are directed to be prosecuted, enforced, or made b
summary jurisdiction, or in a summary manner, or
conviction.

"30. *Appeals.*] In England, if any person thin
grieved by any conviction or order of a court of sum
tion, he may appeal therefrom, subject to the
regulations following:

"(1.) The appeal shall be made to the next cour
quarter sessions for the county, borough, o
the cause of appeal has arisen, held not l
days and (unless adjourned by the court)
four months after the conviction or order a

"(2.) The appellant shall, within seven days aft
appeal has arisen, give notice to the othe
the clerk of the court of summary jurisd
from of his intention to appeal, and of the

"(3.) The appellant shall, within three days aft
enter into a recognizance before a justice
cient sureties conditioned personally to try
to abide the judgment of the appellate cou
to pay such costs as may be awarded by th
such other security, by deposit of money o
the justice allows:

"(4.) Where the appellant is in custody any
jurisdiction in such complaint may, if he
the appellant entering into such recogniz
such other security as to such justice shall
release him from custody:

"(5.) The appellate court may adjourn the appea
hearing thereof, they may confirm, reverse
decision of the court of summary jurisdi
from, or remit the matter, with the opinion
court thereon, to the court of summary j
make such other order in the matter as th

just, and if the matter be remitted to the court of summary jurisdiction, the said last-mentioned court shall thereupon re-hear and decide the matter in accordance with the order of the said court of appeal. The court of appeal may also make such order as to costs to be paid by either party as the court thinks just. 42 & 43 Vict. c. 19.

. *Limitation of Actions.*] Any action against any person for ng done in pursuance or execution or intended execution of t shall be commenced within two years after the thing done, t otherwise.

otice in writing of every such action and of the cause thereof e given to the intended defendant one month at least before mmencement of the action.

Miscellaneous.

2. *Time under* 9 *&* 10 *Vict. c.* 66, *s.* 1.] The time during a person is detained in a retreat shall for all purposes be ex- d in the computation of time mentioned in section one of the f the ninth and tenth years of the reign of her present ty, chapter sixty-six, intituled 'An Act to amend the laws ng to the removal of the poor,' as amended by any other act.

3. *No Forfeiture for Non-fulfilment of Condition of Residence.*] as who hold their estates, being other than ecclesiastical ees, subject to any condition of residence shall not incur any ture through being detained in any retreat.

4. *Fees to be prescribed.*] The secretary of state may, subject rein mentioned, prescribe the fees to be paid in carrying out rovisions of this act."

[The SCHEDULES.

42 & 43 Vict.
c. 19.

The SCHEDULES referred to in the abo

Sects. 4, 5.

The FIRST SCHEDULE.

PART I.

England.

District.	Local Authority.	Clerk
Borough or city corporate having a separate court of quarter sessions.	The justices of the peace for the borough or city for special sessions assembled.	The tice or
County, riding, division, or part of a county, liberty, or other place, not being a county of a city, or a county of a town, or a borough or city corporate as aforesaid.	The justices of the peace for the county or place in general or quarter sessions assembled.	The for pla act dep poi

[The SEC

42 & 43 Vict. c. 19. Sects. 4, 6, 10.

The SECOND SCHEDULE.

Form No. I.

Application for License of Retreat.

The Habitual Drunkards Act, 1879.

: justices of the peace for the county [*or* borough] of [ ] [*or* case may be].

he undersigned, hereby apply for a license for the house described , as a retreat for the reception of male [*or* female, *or* nd female] persons being habitual drunkards within the mean- the above-mentioned act, to be detained and treated as patients n.

d I, the undersigned, undertake to reside in the house and give my al attention to the management, care, and treatment of the patients.

Witness	(Signed)
Name ———	*Name* ———
Address ———	*Address* ———
Description ———	*Description* ———

ose to be described with the following (among other) particulars; and a n a scale of not less than one eighth of an inch to a foot to accompany the ption and be referred to therein.

a. Dimensions of every room.

b. Arrangements for separation of sexes.

c. Quantity of land available for exercise and recreation of patients.

d. Extent of applicant's interest in the house.]

Rules.

An application may include two or more houses belonging to the person or persons, provided no one of the houses is separated from er or others of them otherwise than by land in the same occupation y a road, or in either of those modes.

The application is to be made not less than ten days before the ns or meeting at which it is to be considered.

The clerk of the local authority is to give notice of the application ng been made, by advertisement published in a newspaper circulating e district of the local authority six days at least before the same ns or meeting.

Form No. II.

License.

The Habitual Drunkards Act, 1879.

unty [*or* borough] of { This is to certify that in pursuance of the above-mentioned act the justices of the peace acting in and for the county [*or* borough] of [*or as the case may be*], in general or quarter (or special) sessions mbled, upon the application of *A.B.*, a copy of, which application is ssed on this license, have licensed and do hereby license the said *A.B.* se the house described in that application for the reception of persons

42 & 48 Vict. c. 19.

being habitual drunkards as follows; namely, male [*or* female male and female] patients for calendar months from

Dated this day of 18 .

(Signed)————

Clerk of the Local Au

RULES.

1. A fee of ten shillings is to be paid for the license.

2. The clerk of the local authority, within ten days after a l been granted, is to give notice of the granting thereof by adve published in a newspaper circulating in the district of the local a and is to send a copy of the license to the secretary of state.

FORM No. III.

REQUEST FOR RECEPTION INTO RETREAT.

The Habitual Drunkards Act, 1879.

To

I, the undersigned, hereby request you to receive me as a p your retreat at in accordance with the above-mentioned a undertake to remain therein for at least, unless sooner d charged, and to conform to the regulations for the time being in the retreat.

The above named signed this application presence, and at the time of his [*or* her] a we satisfied ourselves that he [*or* she] habitual drunkard within the meaning Habitual Drunkards Act, 1879, and stated [*or* her] the effect of this application, and [*or* her] reception into the retreat, and he appeared perfectly to understand the same.

Dated this day of

Justices of the peace for the c [*or* borough] of

Witness's
Name in full.
Address.
Description.

Applicant's
Name in full.
Address.
Description.

HARBOURS, DOCKS AND PIERS.

10 & 11 Vict. c. 27.

"The Harbours, Docks and Piers Clauses Act, 1847," 10 Vict. c. 27, the extent of which is shown in Vol. I., *Note* 208. [and see 24 & 25 Vict. c. 45, as to powers of Board of Trade in respect amended by 25 Vict. c. 19 and 25 & 26 Vict. c. provides for various matters being heard and determined be justices, viz.:—

The mode of determining questions of compensation with re to lands purchased or taken is to be the same as under 8 & 9 V c. 18 (title "*Lands Clauses Act*," *post*), s. 6.

rection of errors and omissions in plans and books of reference 10 & 11 Vict. c. 27.
e justices (s. 7).
putes concerning rates, or charges of distresses and assess-, to be determined by a justice (s. 46).
mage, not exceeding £50, done by vessels to the harbour, , or works may be recovered from the owner of vessel before ustices (s. 75); and the owner may in like manner recover it his servants doing the damage (s. 76).
e justices may appoint special constables named by the under- (s. 79), and dismiss them (s. 80).
mages are to be recovered as under 8 & 9 Vict. c. 20 (s. 92).
t. "*Railways*," *post*.

HAWKERS AND PEDLARS.

stices' Certificate of Applicant for Licence.] By 24 & 25 Vict. 24 & 25 Vict. c. 21.
, s. 6, "any licence to a hawker, pedlar and petty chapman r the act may be granted by any authorized officer of inland e upon the person applying for it producing either such cer- e as is now by law required before receiving a hawker's e,—or a certificate under the hand of a justice of the peace e county or place,—or any superintendent or inspector of of or for the district in which the officer shall reside,—that pplicant for such licence under this act is a proper person to be censed." [Form, Oke's "*Formulist*," 6th ed. p. 780.] A ed licence may be granted, on production of previous licence diately on its expiration, without another certificate (27 & 28 c. 56, s. 7; and see 28 & 29 Vict. c. 96, s. 18, and 29 & 30 c. 64, ss. 13, 14). For penalties see Vol. I. p. 860, under this

ences to Pedlars.] These are granted by the police authorities. the provisions in tit. "*Pedlars*," *post*.

HEALTH OF TOWNS. See "*Public Health*."

HIGHWAYS.

Constituting Extra-Parochial Place a Highway Parish.] By 27 & 27 & 28 Vict. c. 101.
Vict. c. 101, s. 9, the justices in petty sessions may appoint over- or otherwise deal with an extra-parochial place with a view to stituting it a highway parish or part of a highway parish, in the e manner as the justices may deal with such place pursuant to Vict. c. 19.

Removing Nuisances.] If timber, soil, rubbish, &c. or other matter 5 & 6 Will. 4 c. 50.
thing be laid on a highway so as to be a nuisance, and shall not, er notice by the surveyor, be forthwith removed, it shall be lawful the surveyor, by order in writing from one justice, to clear the

5 & 6 Will. 4, c. 50.

highway by removing the timber, and to sell same, &
ficient to defray the expenses of removal, the person
same to pay the same, and which may be levied as p
Will. 4, c. 50, s. 73). [Forms Nos. 1—3, and Just
remove Snow, &c., No. 4, pp. 780, 781, Oke's "*Form*

27 & 28 Vict. c. 101.

Encroachments on Highways.] Justices at petty
proof on oath, may levy the expenses of removing
hedge or fence, &c., or removing dung, &c. within
centre of road, upon the offender (27 & 28 Vict. c. 1
see Offence 36, Vol. I. p. 488). It will be seen that
contains a proviso, "that where any carriageway
fenced on both sides no encroachment as aforesaid s
whereby such carriageway or cartway shall be redu
less than thirty feet between the fences on each side.

Impounding Cattle.] See now 27 & 28 Vict. c. 10
"*Highways*," Vol. I., Offence 62, and *Note* **219**, Vol. I

5 & 6 Will. 4, c. 50.

Widening.] Two justices upon view may order
widened and enlarged, &c. (5 & 6 Will. 4, c. 50, s. 8
Order and Certificate of Justices to Quarter Sessions
5, 6, pp. 781, 782, Oke's "*Formulist*," 6th ed.]

Diverting, stopping up, &c.] See 5 & 6 Will. 4, c.
action of vestry in such cases, and *Reg.* v. *Maule*, 4
M. C. 47; *S. C.*, *Foster* v. *Maule*, 23 Law T., N. S.
tices to view on request of surveyor (s. 84). Surve
notice at ends, &c. of highways proposed to be dive
stopped up, in newspaper for four successive weeks
on church door for four successive Sundays. Pr
posting notices, with plan, verified by a surveyor
posed new highway, to be made before the same ju
then to certify the fact of their view, &c. The s
and certificate [on parchment] to be lodged with t
peace for the quarter sessions to be holden next afte
of four weeks therefrom (s. 85). By sect. 88, ten c
of appeal against justices' certificate is to be given;
Vict. c. 45, s. 1, in Vol. I. p. 242, *Note* 5, which re
days' notice in every case of appeal to quarter sess
supersede that provision. In *Reg.* v. *Lancashire* (
M. C. 161; 30 Law T. 149), where the objection n
taken, the 12 & 13 Vict. c. 45 was entirely overlo
and judges, but the court of Queen's Bench held, o
1871, in *Reg.* v. *Maule*, 41 L. J. (N. S.) M. C. 47;
Maule, 23 Law T., N. S. 859, that the latter ac
justices' certificate here mentioned. The quart
award costs to either party, which are recovera
under the act (5 & 6 Will. 4, c. 50, s. 90; and s
tices of West Riding of Yorkshire, 31 L. J. (N. S.

T., N. S. 494). [In South Wales, see 23 & 24 Vict. c. 68, 5 & 6 Will. 4, c. 50.
] After road made under order of quarter sessions, two jus-
of the division to view same, and certify under their hands
eals that the road is made in conformity with the order, and
d condition and repair [but if the road is not of the required
throughout its length, they may refuse to certify, *Reg.* v.
s of Surrey, 3 Law T., N. S. 808]; such certificate is to be
ed to the clerk of the peace and by him inrolled amongst the
ds of the court of quarter sessions next after the order shall
been made (5 & 6 Will. 4, c. 50, s. 91). [Forms of Notices for
ting Resolutions of Vestry, &c., Nos. 7—15; Outline of Proofs
ring Notices, Nos. 16, 17; Justices' Certificate of View, where
proposal to stop up emanates from another party than the
y, or where the proceeding to stop up, &c. originates with the
y, Nos. 18, 19; 47 Certificate that road is completed, No. 20,
782—790, Oke's "*Formulist*," 6th ed.] [These provisions of
6 Will. 4, c. 50, as to widening, diverting or stopping up high-
are applicable to highways paved, &c., under local or personal
; see 25 & 26 Vict. c. 61, s. 44; 27 & 28 Vict. c. 101, s. 21;
ist v. *Surveyors of Frant*, 33 L. J. (N. S.) M. C. 204; *Reg.* v.
ist, 8 Law T., N. S. 456; and *Reg.* v. *Justices of Surrey*, 39
L. (N. S.) M. C. 49.]

llowance and Recovery of Rate.] By two justices (s. 27). Forms,
s "*Formulist*," 6th ed.; No. 21, p. 790.] The allowance and
very are the same as a poor's rate, titles "*Poor*," and "*Rates*,"
[In South Wales, see 23 & 24 Vict. c. 68, s. 25.]

llector not paying over Monies.] By 5 & 6 Will. 4, c. 50, s. 38,
y collector appointed by virtue of this act shall, at such time
in such manner as the surveyor may direct, pay all monies
ived by him as shall remain due from him to the said surveyor;
nd if he refuse or neglect to do so, upon complaint made by the
surveyor to any justice [at any time, *Meyer* v. *Harding*, *Note* 19,
L. p. 135], such justice may issue a summons to appear before
two justices; and upon the said collector appearing, or having
n so summoned and not appearing, without some sufficient or

‖ These forms of certificate have been expressly drawn to meet the
n of *Reg.* v. *Justices of Worcestershire*, 23 L. J. (N. S.) M. C. 113, which
ided that the certificate is defective if it does not state upon its face
n all the particulars required by sect. 85 have been complied with, and
Reg. v. *Phillips and another*, 35 L. J. (N. S.) M. C. 217. The certi-
ate may relate to several roads (*Reg.* v. *Local Board of Midgley*, 33 L. J.
(N. S.) M. C. 88); but if separate certificates are drawn up, care should
taken in the description of the limits at which the notices were posted
to each (see *Reg.* v. *Justices of Surrey*, 39 L. J. (N. S.) M. C. 145).
here the proceedings are instituted at the desire of other persons than
e inhabitants in vestry, it is not necessary that the certificate should
te that the surveyor was authorized by writing of the chairman of the
stry meeting to apply to the justices to view (*Reg.* v. *Maule*, *supra*).

5 & 6 Will. 4, c. 50.

reasonable excuse, or not being found, it shall be lawfu said two justices to hear and determine the matter;—and confession of the party, or by the testimony of any credib on oath, it shall appear to such justices that any monie due from such collector, such justices may, and they a authorized and required upon non-payment thereof, by under their hands to cause such money to be levied by dis sale of the goods of such collector;—and if no goods and of such collector shall be found sufficient to answer and s said money and the charges of distraining and selling the s and chattels, then and in every such case such justices s they are hereby required to commit such offender to the gaol or house of correction for the county, city or place wh offender shall be or reside, there to be kept to hard labo period not exceeding six calendar months, or until he sh paid such monies as aforesaid, or compounded with the sur aforesaid for such money;—which composition the said su with the consent of the inhabitants in vestry, or, in any where they do not meet in vestry, with the consent of the tants contributing to the highway rate at a public meeting bled, is hereby empowered to make and receive. [Forms 23—27, pp. 790, 791, Oke's "*Formulist*," 6th edit.] [In Wales, see 23 & 24 Vict. c. 68, s. 34.] In highway districts 25 & 26 Vict. c. 61, see s. 31, *infra*, and 27 & 28 Vict. c. 101

Railways interfering with Roads.] See 8 & 9 Vict. c. 20, "*Railways*," *post*.

Appeal against Justices' Determination in any Case.] See Will. 4, c. 50, s. 105, in *Note* 211, Vol. I. p. 483, which h words "any order . . . . matter, &c. . . . . *for no particular method of relief hath been already appointed.*" *Reg.* v. *Justices of Derbyshire*, 27 L. J. (N. S.) M. C. 189; a & 13 Vict. c. 45, s. 1, Vol. I. p. 242, *Note* 5, and *Reg.* v. J p. 1422, as to notice before the quarter sessions.

25 & 26 Vict. c. 61.

Repair of Roads in Highway Districts.] By 25 & 26 Vict. s. 18, "where complaint is made to any justice of the peace any highway within the jurisdiction of the highway board is o repair, the justice shall issue two summonses, the one address the highway board and the other to the waywarden of the p liable to the repair of such highway, requiring such board and warden to appear before the justices at some petty sessions, in summons mentioned, to be held in the division where such high is situate;—48 and at such petty sessions, unless the board un

48 By sect. 42, sub-s. 6, "any summons or notice, or any writ or proceeding, at law or in equity, requiring to be served upon the bo may be served by the same being left at or transmitted through the

25 & 26 Vict. c. 61.

repair the roads to the satisfaction of the justices, or unless ywarden deny the liability of the parish to repair, the justices irect the board to appear at some subsequent petty sessions to n named, and shall either appoint some competent person to he highway, and to report to them on its state at such other ssions, or fix a day, previous to such petty sessions, at which more of such justices will themselves attend to view the high- At such last-mentioned petty sessions, if the justices are d. either by the report of the person so appointed, or by such s aforesaid, that the highway complained of is not in a state nplete repair, it shall be their duty to make an order on the limiting a time for the repair of the highway complained of; if such highway is not put in complete and effectual repair by ne limited in the order, the justices in petty sessions shall nt some person to put the highway in repair, and shall by order that the expenses of making such repairs, together with a nable remuneration to the person appointed for superintending repairs, and amounting to a sum specified in the order, to- r with the costs of the proceedings, shall be paid by the board; l any order made for the payment of such costs and expenses be removed into the court of Queen's Bench, in the same er as if it were an order of general or quarter sessions, and be ed accordingly. All expenses so directed to be paid by the l in respect of the repairs of any highway shall be deemed to be ses incurred by the board in repairing such highway, and shall covered accordingly. The highway board may appear before stices at petty sessions by their district surveyor or clerk, or nember of the board." By sect. 19, "when, on the hearing y such summons respecting the repair of any highway, the lity to repair is denied by the waywarden on behalf of his h, or by any party charged therewith, the justices shall direct a of indictment to be preferred [but they cannot do so when the lity to repair is *not* denied, although it is denied that the road highway, *Reg. on prosecution of Carter* v. *Parker* and *Garland, ices of Dorset*, 35 L. J. (N. S) M. C. 210], and the necessary esses in support thereof to be subpœnaed, at the next assizes to olden in and for the said county or at the next general quarter ions of the peace for the county, riding, division or place rein such highway is situate, against the inhabitants of the ish, or the party charged therewith, for suffering and permitting said highway to be out of repair; and the costs of such prose- ion shall be paid by such party to the proceedings as the court

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prepaid letter directed to the office of the board, or being given per- ally to the district surveyor or clerk of the board." As to service of documents issued *by* the board, see a similar enactment, 27 & 28 Vict. 101, s. 26.

25 & 26 Vict. c. 61.

before whom the case is tried shall direct, and if directed by the parish shall be deemed to be expenses incurre parish in keeping its highways in repair, and shall be pa ingly" [the court has no power to order the costs when a private road, *Reg.* v. *Buckland*, 34 L. J. (N. S.) M. C. 17 T., N. S. 380].

27 & 28 Vict. c. 101.

Recovering Contribution from Parishes in Highway Distr sections hereon in the 25 & 26 Vict, c. 61 are repealed; a Vict. c. 101, s. 32, provides how the expenses incurred by way board are to be charged to the several parishes and di respectively. For the purpose of obtaining payment parishes, the highway board are to issue precepts to the w or overseers, stating the sum to be contributed, and requi ment within a stated time to the treasurer of the board (s. wardens and overseers have power to levy rates for making to highway board (s. 34). By sect. 35, "if any paymen to be made by the overseers or waywardens of any parish due to a highway board is in arrear, it shall be lawful for a on application under the hand of the chairman for the ti or by the clerk of such board, to summon the said overseer wardens to show cause at petty sessions why such paymen been made;—and the justices at such petty sessions aft the complaint preferred on behalf of the board, may, *if t* fit, cause the amount of payment in arrear, together with occasioned by such arrear, to be levied and recovered from overseers or waywardens, or any of them, in like manner a assessed for the relief of the poor may be levied and recov tit. '*Rates*,' *post*], and the amount of such arrear, together costs aforesaid, when levied and recovered, to be paid to board."

Appeal against Rates.] 27 & 28 Vict. c. 121, s. 37. See ti *ante*, p. 1308.

Accounts of Highway Board.] An appeal is allowed to th sessions against items of expense and expenditure charged to or the district fund (27 & 28 Vict. c. 101, ss. 36, 38, 39, 40

25 & 26 Vict. c. 61.

Officers of Highway Board failing to account.] See 25 & 26 61, s. 31, being a similar provision to 5 & 6 Will. 4, c. 50, s. p. 1423.

Recovery of Costs of Repairs of Highways from Parties in tenuræ.] By 25 & 26 Vict. c. 61, s. 34, "where any highwa any body politic or corporate or person is liable to repair by of tenure of any land, or otherwise howsoever, shall be a [in manner provided by 'The Highway Act, 1862,' to le repair, 27 & 28 Vict. c. 101, s. 23], the highway board of th in which such highway is situate may, if they see fit, surveyor to repair the same, and the expenses to be

pair shall be paid by the party liable to repair as aforesaid; 25 & 26 Vict. c. 61.
it shall be lawful for any justice, upon the application of any authorized in this behalf by the highway board, to summon rty liable to pay such expenses to appear before two justices me and place to be named in such summons, and upon the ance of the parties, or in the absence of either of them, it e lawful for such justices to hear and determine the matter, ake such order, as well as to costs or otherwise, as to them em just."

ways repairable ratione tenuræ made repairable by Parish.] & 26 Vict. c. 61, s. 34, "where any person or corporation le, by reason of tenure of lands or otherwise, to repair any ays situate in a highway district, the person or corporation ble [or, the highway board, 27 & 28 Vict. c. 101, s. 24] may to any justice of the peace for the purpose of making such ay a highway to be repaired and maintained by the parish in the same is situate;—and such justice shall issue summonses ing the waywarden of such parish, the district surveyor, and arty so liable to repair such highway as aforesaid, to appear e two or more justices in petty sessions assembled,—and the es at such petty sessions shall proceed to examine and deter- the matter, and shall, if they think fit, make an order under hands that such highway shall thereafter be a highway to be after repaired and maintained by the parish, and shall in such fix a certain sum to be paid by such person or corporation to ighway board of the district, in full discharge of all claims after in respect of the repair and maintenance of such highway; d in default of payment of such sum the board may proceed for recovery thereof in the same manner as for the recovery of lties or forfeitures recoverable under this act."[49] Then follow isions as to the investment of sums paid in full; allowing an al to the quarter sessions against the justices' order, &c.

ads laid out and adopted by Parish.] By 25 & 26 Vict. c. 61, , upon application made by the district surveyor with consent of ry, &c., justices in petty sessions may declare a driftway, or ate carriage or occupation road, to be a public carriage road to repaired at the expense of the parish. The adoption of parish ds by council of boroughs is provided for by sect. 45.

ee "Highways and Locomotives (Amendment) Act, 1878," , pp. 1225—1241.

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[49] By 25 & 26 Vict. c. 61, s. 47, penalties and money are to be re- ered before two or more justices in manner directed by the 11 & 12 c. 43.

HOP TRADE.

29 Vict. c. 37. *Search Warrant for Bags or Pockets improperly* "The Hop (Prevention of Frauds) Act, 1866," s. 10 21st day of August, 1866, it shall be made appear to the peace, upon information upon oath, that hops co bag or pocket, or any bag or bags, pocket or pocke care or custody of any person, which bag or bags, poc there is good reason to believe is or are not marked a or has or have thereon any mark contrary to, this a recited acts [see the Offences in title '*Hop Trade*,' Vo 504], it shall be lawful for such justice to issue his w constable or constables, empowering or requiring hi enter upon any place or places where such hops, bag o or pockets may be, and to take with him or them persons, and there to search for the said hops, bag or or pockets,—and if he or they shall find there any hop or pocket, or any bag or bags, pocket or pockets, w *bonâ fide* believe to be marked contrary to, or not to by the said acts and this act required, to seize the sa or bags, and pocket or pockets, and to detain the sam of time not exceeding one month, or such further justice of the peace may order."

INCLOSURES.

8 & 9 Vict. c. 118. *Matters in relation to Inclosure.*] Declaration of v acting to be made before any justice (8 & 9 Vict. c. [Form, No. 1, p. 791, Oke's "*Formulist*," 6th ed.]

Certificate of public roads and ways set out being formed and completed, to be made by two or more just county, &c. in which lands to be inclosed shall be situ [Form, No. 2, p. 792, Oke's "*Formulist*," 6th ed.] Th diverting or altering roads is with the valuer, and not t subject to appeal to quarter sessions (ss. 62, 63; see *Reg of Huntingdonshire*, 1 L. Rep., Q. B. 36). Certifica justices of the election of field reeve (s. 117); order pensation for rateable increase or diminution of rights recovery of expenses of exchanges and divisions (s. 151)

Recovery of penalties or forfeitures imposed by com or assistant commissioners before any two justices of t not interested (s. 159). See 3 & 4 Will. 4, c. 35, s. 1, as for rates for the purpose of setting out and making The other acts relating to inclosures are:—9 & 10 Vi 10 & 11 Vict. c. 111; 11 & 12 Vict. c. 99; 12 & 13 Vi 15 & 16 Vict. c. 79; 20 & 21 Vict. c. 31, and 22 & 23 V

15 & 16 Vict. c. 79. *Obtaining Possession of Encroachments.*] By 15 & 16 V

when any person, by whom any encroachment or inclosure never value, which, under the 8 & 9 Vict. c. 118, shall be d to be parcel of the land subject to be inclosed [which ts ancient inclosures, *Chilcote* v. *Youldon*, 29 L. J. (N. S.) 197; 2 Law T., N. S. 370], shall be actually occupied, shall t or refuse to quit and deliver up possession of the same, or any hereof, to the valuer acting in the matter of the inclosure, one calendar month next after the determination of claims the said act, the possession may be recovered by such valuer the provisions of the 1 & 2 Vict. c. 74 [see tit. "*Landlord and t.*" *post*], in such and the same manner as if such occupier of roachment or inclosure were the tenant of a house, land or eal hereditament, the possession of which is recoverable such last-mentioned act, whose term or interest had ended, he valuer were the landlord of the said premises;—provided , that the form of notice of valuer's intention to apply to es to recover possession, complaint before two justices, and nt to peace officer to take and give possession, set forth in the ule to this act, shall be substituted for the forms set forth in & 2 Vict. c. 74: the expenses incurred by the valuer to be d expenses in the matter of the inclosure. [Forms, Nos. Oke's "*Formulist*," 6th ed. pp. 792, 793.]

15 & 16 Vict. c. 79.

Compensation for surface Damage in working Mines and Quarries.] 22 & 23 Vict. c. 43.

2 & 23 Vict. c. 43, s. 4, "in case it shall be provided [by theional order of the Inclosure Commissioners, s. 1] that the e or any part of such compensation as aforesaid [*i. e.*, for surface age in working mines, minerals, stone or other substrata under and inclosed, ss. 1, 2] shall be made by the owners of allotments tively, either including or not including the lord or such other n as aforesaid, then all such damage as may at any time and time to time be done to any allotment by any of the means said [s. 3] shall be assessed and raised as follows; (that is to —it shall be lawful for any person who may sustain any such age as aforesaid to give information thereof to any two or more ces of the peace for the county or riding or other division or place in which the lands which shall have been inclosed, or the greater thereof, shall be situate (ten days' previous notice of such ded information having been fixed on the church door of the h or other ecclesiastical district); and such justices shall and hereby empowered to examine and inquire into such complaint summary way, and by examination of witnesses upon oath, or by other evidence as they shall think proper;—and such justices ll determine the amount of such damage, and order the payment reof to the party damaged by the persons, and in the manner inafter expressed," [*i. e.* by the owners of the allotments as osed by the valuer's award by a rate, such rate to be enforced by

22 & 23 Vict. c. 43.

two or more justices by distress (ss. 5, 6, 7), and i
default under 11 & 12 Vict. c. 43, s. 22, p. 228, in

Drainage of Land.] *Vide* 24 & 25 Vict. c. 133, r
title "*Drainage,*" *ante*, p. 1381.

INDUSTRIAL AND PROVIDENT SOC

25 & 26 Vict. c. 87; 30 & 31 Vict. c. 117; 34 & 35 Vict. c. 80.

The Industrial and Provident Societies Act, 186
previous Acts of 15 & 16 Vict. c. 31; 17 & 18 Vict. c.
Vict. c. 40 (s. 1). It is amended by "The Industri
Societies Act, 1867," 30 & 31 Vict. c. 117 (which rep
provisions of the 25 & 26 Vict. c. 87, and incorpor
one act), and by "The Industrial and Provident Soci
34 & 35 Vict. c. 80.

I. *Analysis of the Acts.*
II. *Jurisdiction of the Judges.*

I. *Analysis of the Acts.*

Purposes for which Societies may be established.
Vict. c. 87, s. 2, societies registered under 15 & 1
entitled to obtain without fee a certificate of registr
tion to the registrar of friendly societies. By sect.
of persons, not being less than seven, may establish
this act for the purpose of carrying on any labour,
craft, whether wholesale or retail [except the work
quarries, *but this exception is repealed by* 30 & 31 V
and except the business of banking, and of applyi
any purposes allowed by the Friendly Societies A
permitted by law." By 34 & 35 Vict. c. 80, s. 5,
selling land is to be deemed to be a "trade."
c. 117, s. 2, a society registered under this act
registered name any amount of interest in any
registered; but if any other person hold or claim
registered any interest exceeding £200 sterling, s
incur a penalty equal to the excess of such interes

Rules and Registration of Societies.] The rule
provisions in respect of the matters mentioned in
the act (25 & 26 Vict. c. 87, s. 4, and see 30 &
ss. 10, 14, as to rules of societies established u
stitution of a new schedule). Two copies of the
warded to the registrar of friendly societies, w
dealt with by him as provided by "The Friend
1875";—and his certificate of registration is t
evidence that the society has been duly registere
the members become a body corporate by th

l, having a perpetual succession and a common seal with 25 & 26 Vict. c. 87; 30 & 31 Vict. c. 117; 34 & 35 Vict. c. 80.
purchase, erect and sell and convey, or to hold lands and
s, with limited liability (30 & 31 Vict. c. 117, s. 4, and see
and 34 & 35 Vict. c. 80, ss. 1, 2). The certificate of regis-
vests all property in the society which is now held in trust
society (25 & 26 Vict. c. 87, s. 6). A copy of the rules is to
vered to any person on payment of not exceeding one
(Id. s. 7). No society is to be registered by the same
s that of an existing society, and it shall have the word
d" as the last word (Id. s. 8). By 25 & 26 Vict. c. 87, s. 14,
es bind the society and the members thereof, as if each
ned his name and affixed his seal thereto, and there were in
covenant to conform to them. A society may be consti-
nder the Companies Act (s. 21). Annual returns are to be
registrar (s. 24). By 30 & 31 Vict. c. 117, s. 11, societies
shed previous to 25 & 26 Vict. c. 87, to be deemed to be
shed from registration under either act; and see sect. 14.

e of Society.] By 25 & 26 Vict. c. 87, ss. 10, 11, the name
society is to be published on documents issued, under
ies. See this tit. in Vol. I., Offences 1, 2, pp. 512, 513.

of Societies.] Every society under the act is to have a
red office to which all communications and notices may be
sed (25 & 26 Vict. c. 87, s. 12). Notice of the situation,
nge of situation, of office is to be given to the registrar
).

rest, Privilege, and Liabilities of Members.] See 30 & 31
c. 117, s. 2. By sect. 5, a member has power to nominate
s into whose name his interest may be transferred at his
. Members may inspect the books (25 & 26 Vict. c. 87,
. As to their liabilities, see sect. 20.

at Provisions of Friendly Societies Acts apply to these Societies.]
0 & 31 Vict. c. 117, s. 3, the following provisions of the
dly Societies Acts shall apply to societies registered under
act:—

much of The Friendly Societies Acts, 1855 and 1858, as
relates to—

The punishment of fraud in withholding any money or other property belonging to any society [18 & 19 Vict. c. 63, s. 24, Offences 1—3, Vol. I. p. 438]:

The determination of disputes by the county courts in England, the sheriffs' court in Scotland, and the assistant barrister in Ireland, and the orders and proceedings for this purpose [18 & 19 Vict. c. 63, ss. 41, 42, 43; and 21 & 22 Vict. c. 101, s. 1]:

The reception of rules and other instruments in evidence [18 & 19 Vict. c. 63, s. 30]:

25 & 26 Vict. c. 87; 30 & 31 Vict. c. 117; 34 & 35 Vict. c. 80.

The exemption of rules and other instruments from stamp duty [18 & 19 Vict. c. 63, s. 37]:

The power to any society to change its name [21 & 22 Vict. c. 101, s. 4].

Winding up and Dissolution of Societies.] Societies may be wound up in the same manner as companies under the Companies Acts by the county court of the district in which the office of the society is situated (25 & 26 Vict. c. 87, s. 17);—but the dissolution of the society is not to prevent the winding up of its affairs (s. 18).

II. *Jurisdiction of Justices.*

Since the 30 & 31 Vict. c. 117, justices have no jurisdiction in determining disputes in relation to these societies, as it does not apply sect. 40 of 18 & 19 Vict. c. 63, to these societies, but gives the jurisdiction in England to the county courts.

INDUSTRIAL SCHOOLS.

29 & 30 Vict. c. 118.

"The Industrial Schools Act, 1866," 29 & 30 Vict. c. 118 (passed 10th August, 1866) repealed the previous acts of 24 & 25 Vict. c. 113, and 25 & 26 Vict. c. 10 (s. 3), and contains, with the exception of some few provisions in "The Elementary Education Act, 1870," and "The Prevention of Crimes Act, 1871," the whole law upon the subject, which by sect. 54 applies to all existing certified industrial schools. The following are the provisions of the act arranged under convenient heads:—

I. *Certifying of Schools, and Expenses.*
II. *Classes of Children to be detained in Certified Industrial Schools.*
III. *Powers of Managers of Schools.*
IV. *Recovery of Contribution from Parent of Child.*

I. *Certifying of Schools, and Expenses.*

Description of Industrial Schools and Managers.] Sect. 5. "A school in which industrial training is provided, and in which children are lodged, clothed and fed, as well as taught, shall exclusively be deemed an industrial school within the meaning of this act. The persons for the time being having the management or control of such a school shall be deemed the managers thereof for the purposes of this act."

Inspector of Industrial Schools and Assistant.] Sect. 6. "Such one of her Majesty's inspectors of prisons as one of her Majesty's principal secretaries of state (in this act referred to as the secretary of state) from time to time thinks fit to appoint to be the inspector of reformatory schools shall also be the inspector of industrial

la. The secretary of state may from time to time appoint a 29 & 30 Vict.
rson to assist the inspector;—and every person so appointed c. 118.
have such of the powers and duties of the inspector of indus-
schools as the secretary of state from time to time prescribes,
hall act under the direction of the inspector."

d of Certifying Industrial School.] Sect. 7. "The secretary
te may, on the application of the managers of an industrial
l, direct the inspector of industrial schools to examine into
ondition of the school, and its fitness for the reception of
ren to be sent there under this act, and to report to him
on, and the inspector shall examine and report accordingly.
tisfied with the report of the inspector the secretary of state
by writing under his hand, certify that the school is fit for
reception of children to be sent there under this act, and
upon the school shall be deemed a certified industrial school."

hool not to be Certified as Industrial and Reformatory.] Sect. 8.
school shall not be at the same time a certified industrial school
r this act and a certified reformatory school under any other

otices of Certificate to be gazetted—Copy of Gazette to be Evidence.]
. 9. "A notice of the grant of each certificate shall within one
th be inserted by order of the secretary of state in the London
. . Gazette. A copy of the Gazette containing the notice shall
onclusive evidence of the grant, which may also be proved by
certificate itself, or by an instrument purporting to be a copy
e certificate, and to be attested as such by the inspector of in-
trial schools."

spection of School.] Sect. 10. "Every certified industrial
ol shall from time to time, and at least once in each year, be
ected by the inspector of industrial schools or by a person ap-
nted to assist him as aforesaid."

lterations, &c. of Buildings to be approved.] Sect. 11. "No
stantial addition or alteration shall be made to or in the build-
s of any certified industrial school without the approval in
iting of the secretary of state."

Contribution towards Establishment and Enlargement of Schools.]
t. 12. "In England a prison authority 50 may from time to
e contribute such sums of money, and on such conditions as
y think fit, towards the alteration, enlargement or rebuilding of

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50 The term "prison authority" has by sect. 4 the same meaning as in
the Prisons Act, 1865," 28 & 29 Vict. c. 126. Sect. 5 of that act pro-
les—in counties, it shall be the justices in quarter sessions; in riding
isons, the justices assembled in gaol sessions under 5 Geo. 4, c. 12; in
e city of London, the court of lord mayor and aldermen; borough
isons, the council of the borough; and prisons in liberties, the justices,
uncil or persons empowered to build prisons assembled at gaol sessions, &c.

29 & 30 Vict. c. 118.

a certified industrial school,—or towards the support of the inmates of such a school,—or towards the management of such a school,—or towards the establishment or building of a school intended to be a certified industrial school,—or towards the purchase of land required either for the use of an existing certified industrial school, or for the site of a school intended to be a certified industrial school; 51 provided,—

"First, that no less than two months' previous notice of the intention of the prison authority to take into consideration the making of such contribution, at a time and place to be mentioned in such notice, be given by advertisement in some one or more public newspaper or newspapers circulated within the district of the county or borough, and also in the manner in which notices relating to business to be transacted by the prison authority are usually given:

"Secondly, that where the prison authority is the council of a borough, the order for the contribution be made at a special meeting of the council:

"Thirdly, that where the contribution is for alteration, enlargement, rebuilding, establishment or building of a school or intended school, or for purchase of land, the approval of the secretary of state be previously given for that alteration, enlargement, rebuilding, establishment, building or purchase."

Mode of obtaining Approval of Secretary of State.] Sect. 13. "In order to obtain the approval of the secretary of state as aforesaid where required, the managers of the school or promoters of the intended school, shall forward to the secretary of state particulars of the proposed establishment or purchase, and a plan of the proposed alteration, enlargement, rebuilding or building, drawn on such scale and accompanied by such particulars and estimate of cost, as the secretary of state thinks fit to require;—and the secretary of state may approve of the particulars and plans sub-

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51 *Contribution by School Board.*] By "The Elementary Education Act, 1870," 33 & 34 Vict. c. 75, s. 27, "a school board shall have the same powers of contributing money in the case of an industrial school as is given to a prison authority by sect. 12 of 'The Industrial Schools Act, 1866;'—and upon the election of a school board in a borough the council of that borough shall cease to have power to contribute under that section." By sect. 28, "a school board may, with the consent of the education department, establish, build, and maintain a certified industrial school within the meaning of 'The Industrial Schools Act, 1866,' and shall for that purpose have the same powers as they have for the purpose of providing sufficient school accommodation for their district:—provided that the school board, so far as regards any such industrial school, shall be subject to the jurisdiction of one of her Majesty's principal secretaries of state in the same manner as the managers of any other industrial school are subject, and such school shall be subject to the provisions of the said act, and not of this act."

| to him, with or without modification, or may disapprove of 29 & 30 Vict.
me, and his approval or disapproval shall be certified by c. 118.
g under his hand."

r of Secretary of State to withdraw Certificate.] Sect. 44. secretary of state, if dissatisfied with the condition of a certi- dustrial school, may at any time, by notice 52 under his hand sed to and served on the managers thereof, declare that the cate of the school is withdrawn as from a time specified in tice, not being less than six months after the date thereof:— t that time the certificate shall be deemed to be withdrawn ingly, and the school shall thereupon cease to be a certified trial school."

ignation of Certificate by Managers.] Sect. 45. "The managers executors or administrators of a deceased manager (if only of a certified industrial school may give notice in writing to secretary of state of their intention to resign the certificate of school,—and at the expiration in the case of managers of six ths, and in the case of executors or administrators of one month, the receipt of that notice by the secretary of state (unless n that time the notice is withdrawn) the certificate shall be sed to be resigned accordingly, and the school shall thereupon to be a certified industrial school."

cetting and Evidence of Withdrawal, &c.] Sect. 46. "A notice he withdrawal or resignation of the certificate of a certified strial school shall within one month be inserted by order of the tary of state in the London . . . Gazette. . . A copy he Gazette containing such notice shall be conclusive evidence ch withdrawal or resignation. A certificate shall be presumed e in force until the withdrawal or resignation thereof is proved."

ner of Reception of Children on Notice, &c.] Sect. 47. "Where ice is given of the withdrawal or resignation of the certificate of rtified industrial school, no child shall be received into the school detention under this act after the receipt by the managers of the ool of the notice of withdrawal, or after the date of the notice of ignation, as the case may be;—but the obligation of the managers each, train, clothe, lodge and feed any children detained in the ool at the time of such receipt or at the date of such notice shall, cept so far as the secretary of state otherwise directs, be deemed continue until the withdrawal or resignation of the certificate kes effect, or until the contribution out of money provided by

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[52] By sect. 53, "any notice may be served on the managers of a certi- d industrial school by being delivered to any one of them personally, or being sent by post or otherwise in a letter addressed to them or any of em at the school, or at the usual or last known place of abode of any of e managers, or of their secretary."

29 & 30 Vict. c. 118.

parliament towards the custody and maintenance of the children detained in the school is discontinued, whichever shall first happen."

Discharge of Children detained, &c.] Sect. 48. "Where a school ceases to be a certified industrial school, the children detained therein shall be either discharged or transferred to some other certified industrial school by order of the secretary of state."

Power to Treasury to contribute towards Custody, &c. of Children detained.] Sect. 35. "The commissioners of her majesty's treasury may from time to time contribute, out of money provided by parliament for the purpose, such sums as the secretary of state from time to time thinks fit to recommend towards the custody and maintenance of children detained in certified industrial schools;—provided that such contributions shall not exceed two shillings per head per week for children detained on the application of their parents, step-parents or guardians."

Power to Prison Authority to contract for Reception of Children in Schools.] Sect. 36. "In England a prison authority may contract with the managers of a certified industrial school for the reception and maintenance therein of such children as are from time to time ordered by justices to be sent there from the district of the prison authority."

Power to Guardians of Poor, &c. to contribute.] Sect. 37. "The guardians of the poor of a union or parish, 53 or the board of management of a district pauper school . . . may from time to time, with the consent in England of the poor law board . . . contribute such sums as they think fit towards the maintenance of children detained in a certified industrial school on their application."

Expenses of Prison Authorities, how defrayed.] Sect. 50. "Expenses incurred by a prison authority in England in carrying into effect the provisions of this act shall be deemed expenses incurred by that authority in carrying into effect the provisions of 'The Prison Act, 1865,' and shall be defrayed accordingly."

II. *Classes of Children to be detained in Certified Industrial Schools.* 54

As to Children under Fourteen Years of Age found begging, &c.] Sect. 4. "Any person may bring before two justices 55 . . .

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53 The term "parish" includes a place separately maintaining its own poor (s. 4).

54 *Officer of School Board to bring Children before Justices.*] By "The Elementary Education Act, 1870," 33 & 34 Vict. c. 75, s. 36, "every school board may, if they think fit, appoint an officer or officers to . . . bring children who are liable under 'The Industrial Schools Act, 1866,' to be sent to a certified industrial school before two justices in order to their being so sent, and any expenses incurred under this section may be paid out of the school fund."

55 *Definition of "Justices."*] By 29 & 30 Vict. c. 118, s. 4, the term

id apparently under the age of fourteen years that comes 29 & 30 Vict. c. 118.
any of the following descriptions, namely,—
t is found begging or receiving alms (whether actually or
der the pretext of selling or offering for sale any thing) or
ng in any street or public place for the purpose of so begging
receiving alms;
t is found wandering and not having any home or settled
ce of abode, or proper guardianship, or visible means of
bsistence;
it is found destitute, either being an orphan or having a
rviving parent who is undergoing penal servitude or impri-
nment;
it frequents the company of reputed thieves.'
ustices . . . before whom a child is brought as coming
one of those descriptions, if satisfied on inquiry of that fact,
at it is expedient to deal with him under this act, may order
be sent to a certified industrial school." By sect. 1 of "The
trial Schools Acts Amendment Act, 1880," 43 & 44 Vict. c. 15,
nacted that sect. 14 of the Industrial Schools Act, 1866, shall
ad and construed as if after the four several descriptions
in contained, there are added the following descriptions,
ly,—
it is, lodging, living, or residing with common or reputed
prostitutes, or in a house resided in or frequented by prosti-
utes for the purpose of prostitution;
at frequents the company of prostitutes.
ect. 19, *infra*, as to remand to workhouse.] 56
to Children under Twelve Years of Age charged with Offences.]
. 15. "Where a child apparently under the age of twelve

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tice" applies to England only, and means a justice of the peace having
diction in the place where the matter requiring the cognizance of a
ce arises. The term "two justices" applies to England only, and
as two or more justices in petty sessions, or the lord mayor or an alder-
of the city of London, or a police or stipendiary magistrate, or other
ce having by law authority to act alone for any purpose with the
ers of two justices.

Care of Children of Women convicted of Crimes.] By "The Prevention
Crimes Act, 1871," 34 & 35 Vict. c. 112, s. 14, "where any woman is
victed of a crime [see definition of "crime," *ante*, p. 951, note *], and
previous conviction of a crime is proved against her, any children of
h woman under the age of fourteen years who may be under her care
control at the time of her conviction for the last of such crimes, and
o have no visible means of subsistence, or without proper guardianship,
all be deemed to be children to whom in great Britain the provisions of
he Industrial Schools Act, 1866,' apply—and the court by whom such
man is convicted, or two justices or a magistrate, shall have the same
wer of ordering such children to be sent to a certified industrial school
is vested in two justices or a magistrate by the fourteenth section of
the Industrial Schools Act, 1866,' in respect of the children in the said
tion described."

29 & 30 Vict. c. 118.

years is charged before two justices . . . with an offence punishable by imprisonment or a less punishment, but has not been . . . convicted of felony . . . and the child ought, in the opinion of the justices . . . (regard being had to his age and to the circumstances of the case), to be dealt with under this act, the justices . . . may order him to be sent to a certified industrial school."

As to refractory Children under Fourteen Years of Age in Charge of Parent, &c.] Sect. 16. "Where the parent or step-parent or guardian of a child apparently under the age of fourteen years represents to two justices . . . that he is unable to control the child, and that he desires that the child be sent to an industrial school under this act, the justices, . . . if satisfied on inquiry that it is expedient to deal with the child under this act, may order him to be sent to a certified industrial school."

As to refractory Children under Fourteen Years of Age in Workhouses, Pauper Schools, &c.] Sect. 17. "Where the guardians of the poor of a union or of a parish wherein relief is administered by a board of guardians, or the board of management of a district pauper school, . . . represent to two justices . . . that any child apparently under the age of fourteen years maintained in a workhouse or pauper school of a union or parish, or in a district pauper school, . . . is refractory, or is the child of parents either of whom has been convicted of a crime or offence punishable with penal servitude or imprisonment, and that it is desirable that he be sent to an industrial school under this act, the justices . . . may, if satisfied that it is expedient to deal with the child under this act, order him to be sent to a certified industrial school."

Form and Contents of Order sending Child to School.] Sect. 18. "The order of justices . . . sending a child to a school (in this act referred to as the order of detention in a school) shall be in writing signed by the justices, . . . and shall specify the name of the school." 57

"The school shall be some certified industrial school (whether situate within the jurisdiction of the justices . . . making the order or not) the managers of which are willing to receive the child;—58 and the reception of the child by the managers of the

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57 The Form is A, in the schedule to the act. See Oke's "*Formalist*," 6th ed., p. 794, No. 3. By sect. 31, the time during which a child is detained in a school under this act shall for all purposes be excluded in the computation of time mentioned in sect. 1 of the 9 & 10 Vict. c. 56, as amended by any other act as to the poor laws.

58 The assent of the managers of the school is previously obtained by writing to them with the particulars of the case. It is now more convenient for this assent to be obtained by the officer of the school board, mentioned in *Note* 54 *supra*, who inquires into the case, the position of the

shall be deemed to be an undertaking by them to teach, clothe, lodge and feed him during the whole period for which iable to be detained in the school, or until the withdrawal or ation of the certificate of the school takes effect, or until the bution out of money provided by parliament towards the ly and maintenance of the children detained in the school is ntinued, whichever shall first happen. The school named in rder shall be presumed to be a certified industrial school until ontrary is shown. In determining on the school the justices . shall endeavour to ascertain the religious persuasion to t the child belongs, and shall, if possible, select a school con- d in accordance with such religious persuasion, and the order specify such religious persuasion. The order shall specify ime for which the child is to be detained in the school, being time as to the justices . . . seems proper for the teaching training of the child, but not in any case extending beyond time when the child will attain the age of sixteen years."

29 & 30 Vict. c. 118.

mporary Detention in Workhouse, &c.] Sect. 19. "Two jus- . . . while inquiry is being made respecting a child or ecting a school to which he may be sent, may, by order signed hem, ... order the child to be taken to the workhouse . . of the union, parish or . . . in which he is found esident, . . . and to be detained therein at the cost of the on, parish, or . . . for any time not exceeding seven days, ntil an order is sooner made for his discharge or for his being t to a certified industrial school;—and the guardians of the poor the union or parish . . . to whom the order is addressed, and is hereby empowered and required to detain him accord- ly." 59

Power to Parent, &c. to apply to remove Child to a School conducted accordance with Child's Religious Persuasion.] Sect. 20. "If the ent, step-parent, or guardian, or if there be no parent, step- ent, or guardian, then the god-parent or nearest adult relative, a child sent or about to be sent to a certified industrial school ich is not conducted in accordance with the religious persuasion which the child belongs, states to the justices . . . by whom e order of detention has been or is about to be made (or to two stices . . . having the like jurisdiction) that he objects to e child being sent to or detained in the school specified or about

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ild's parents, &c., and reports the result to the justices before whom the ild is brought, when the parents may be summoned "to give evidence," in reality, to show cause, in cases coming within the 14th and 15th ctions, why they allow their child to be wandering, &c., and why he ould not be sent to an industrial school.

59 *Vide* Oke's "*Formulist*," 6th ed. p. 794, No. 2, for a form of this der; and No. 1, p. 794, form of a notice by the police to the parent, &c. the child being in custody.

29 & 30 Vict. c. 118.

to be specified in the order, and names another certified in school in Great Britain which is conducted in accordance v religious persuasion to which the child belongs, and sign desire that the child be sent thereto, then and in every su the said justices . . . shall, upon proof of such child's r persuasion, comply with the request of the applicant, provi

"First, that the application be made before the child h sent to a certified industrial school, or within thir after his arrival at such a school:

"Secondly, that the applicant show to the satisfaction justices . . . that the managers of the school na him are willing to receive the child." [*Vide* Form Order, No. 5, Oke's "*Formulist*," 6th edit. p. 795.]

Order to be Warrant for Conveyance and Detention.] Se "The order of detention in a school shall be forwarded managers of the school with the child, and shall be a su warrant for the conveyance of the child thither and his det there." 60

Expenses of Conveyance to School.] Sect. 23. "The expe conveying to a certified industrial school a child ordered to b there shall be defrayed by the police authorities by whom conveyed, and shall be deemed part of the current expen those police authorities." 61

Evidence of Order of Detention.] Sect. 24. "An instru purporting to be an order of detention in a school and to be s by two justices . . . or purporting to be a copy of suc order and to be certified as such a copy by the clerk to the ju . . . . by whom the order was made, shall be evidence o order." [See sect. 9, evidence of school, *ante*, p. 1433; and 30, p. 1442, as to evidence of reception in school, &c.]

Detention to cease on Child attaining Sixteen.] Sect. 41. person who has attained the age of sixteen years shall not be tained in a certified industrial school, except with his own con in writing."

Transfer to another School by Secretary of State.] Sect. 42. " secretary of state may at any time order a child to be transfe from one certified industrial school to another, but so that whole period of his detention be not thereby increased. The se tary of state may also at any time order a child being in

60 It is recommended that the order be made in duplicate, one be retained by the clerk to the justices signing it, of which a certified co can at any time be furnished, as required by sect. 24. [*Vide* Form. No. p. 795, Oke's "*Formulist*," 6th ed.]

61 In the corresponding provision of the Reformatory Schools Act the same session, this expense is to be borne by the prison authorit See 28 & 29 Vict. c. 117, s. 23.

e of detention in an industrial school established under any 29 & 30 Vict.
et of parliament, the general rules for the government c. 118.
f have been approved by the secretary of state, to be trans-
to a certified industrial school under this act; and in that
e child shall after the transfer be deemed to be subject in all
s to the provisions of this act, but so that the whole period
detention be not by such transfer increased. The commis-
of her Majesty's treasury may pay, out of money provided
liament for the purpose, such sum as the secretary of state
fit to recommend, in discharge of the expenses of the re-
of any child transferred under the provisions of this act."

harge by Secretary of State.] Sect. 43. "The secretary of
may at any time order any child to be discharged from a cer-
industrial school or from any industrial school established
any other act of parliament, the general rules for the govern-
whereof have been approved by the secretary of state, either
itely or on such condition as the secretary of state approves,
the child shall be discharged accordingly."

III. *Powers of Managers of Schools.*

igious Instruction in School.] Sect. 25. "A minister of the
ous persuasion specified in the order of detention as that to
h the child appears to the justices . . . to belong may visit
hild at the school on such days and at such times as are from
to time fixed by regulations made by the secretary of state,
he purpose of instructing him in religion."

dging Child out of School.] Sect. 26. "The managers of a
l may permit a child sent there under this act to lodge at the
ling of his parent or any trustworthy and respectable person,
at the managers teach, train, clothe, and feed the child in the
l as if he were lodging in the school itself, and so that they
rt to the secretary of state, in such manner as he thinks fit to
ire, every instance in which they exercise a discretion under
section."

icence for living out of School.] Sect. 27. "The managers of a
ol may, at any time after the expiration of eighteen months of
period of detention allotted to a child, by licence under their
ds, permit him to live with any trustworthy and respectable
son named in the licence, and willing to receive and take charge
him. Any licence so granted shall not be in force for more than
e months, but may at any time before the expiration of those
e months be renewed for a further period not exceeding three
nths, to commence from the expiration of the previous period of
e months, and so from time to time until the period of the
ld's detention is expired. Any such licence may also be revoked
any time by the managers of the school by writing under their

[illegible] hands, and thereupon the child to whom the licence rela[illegible] required by them, by writing under their hands, to ret[illegible] school.[62] The time during which a child is absent fro[illegible] in pursuance of a licence shall, except where such licenc[illegible] forfeited by his misconduct, be deemed to be part of t[illegible] his detention in the school, and at the expiration of the ti[illegible] by the licence he shall be taken back to the school."

Power to apprentice Child.] Sect. 28. "The managers [illegible] may at any time after a child has been placed out on [illegible] licence, if he conducted himself well during his absenc[illegible] school, bind him, with his own consent, apprentice to [illegible] sailing or service notwithstanding that his period of det[illegible] not expired,—and every such binding shall be valid and [illegible] to all intents."

Rules of School to be approved by Secretary of State.] "The managers of a certified industrial school may fro[illegible] time make rules for the management and discipline of t[illegible] not being inconsistent with the provisions of this act;—[illegible] rules shall not be enforced until they have been approved [illegible] by the secretary of state;—and rules so approved shall not [illegible] without the like approval. A printed copy of rules purp[illegible] be the rules of a school so approved and to be signe[illegible] inspector of industrial schools shall be evidence of the rul[illegible] school."[63]

Evidence as to Reception in School, &c.] Sect. 30. "A c[illegible] purporting to be signed by one of the managers of a certifie[illegible] school or their secretary, or by the superintendent [illegible] person in charge of the school, to the effect that the child [illegible] named was duly received into and is at the signing thereof [illegible] in the school or has been duly discharged or removed there[illegible] otherwise disposed of according to law, shall be evidence [illegible] matters therein stated."

[See further sect. 9, *ante*, p. 1433, as to evidence of sch[illegible] sect. 24, *ante*, p. 1442, as to other evidence of order.]

IV. *Recovery of Contribution from Parent of Child.*

Contribution of Parent, &c.] Sect. 39. "The parent, step[illegible] or other person for the time being legally liable to maintain [illegible] detained in a certified industrial school shall, if of sufficient [illegible] contribute to his maintenance and training therein a su[illegible] exceeding five shillings per week."

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62 The child refusing to return to the school when required [illegible] section, or on the expiration of the licence, is deemed to have [illegible] from the school and punishable accordingly. See Offence 4, Vol. I. [illegible] tit. "*Industrial Schools.*"

63 A child not conforming to the rules is liable to be imprisoned [illegible] Offence 1, tit. "*Industrial Schools,*" Vol. I. p. 512.

s for Enforcement of Contribution by Parent, &c.] Sect. 40. 29 & 30 Vict. c. 118.
the complaint of the inspector of industrial schools or of any of the inspector, or of any constable under the directions of the tor (with which directions every constable is hereby required ply), at any time during the detention of a child in a certified rial school, 64 two justices 65 . . . having jurisdiction place where the parent, step-parent or other person liable as aid resides may, on summons to the parent, step-parent or person liable as aforesaid, examine into his ability to maintain ild, and may if they . . . think fit make an order. . . . n for the payment to the inspector or his agent of such weekly ot exceeding five shillings per week as to them . . . seems nable, during the whole or any part of the time for which the is liable to be detained in the school. Every such order . . . specify the time during which the payment is to be made, or direct the payment to be made until further order. . . . . y such payment or a proper proportionate part thereof shall relief of the charges on her Majesty's treasury, and the same be accounted for as the commissioners of her Majesty's treasury t, and where the amount of the payment ordered in respect of child exceeds the amount contributed by the commissioners of Majesty's treasury in respect of that child, the balance shall be unted for and paid to the managers of the school. The secre- of state may in his discretion remit wholly or partially any ment so ordered. Two justices . . . having jurisdiction to e such an order . . . may from time to time vary any such . . . . as circumstances require, on the application either he person on whom such order . . . is made, or of the pector of industrial schools or his agent, on fourteen days' notice ag first given of such application to the inspector or agent or to h person respectively."

Recovery of Sums ordered.] By sect. 51, the 11 & 12 Vict. c. 43 is apply to "all payments and orders in respect of which jurisdic- n is given to justices . . . by this act, or which are by this t directed to be . . . . enforced or made in a summary nner,"—*i. e.* by distress (11 & 12 Vict. c. 43, s. 19, Vol. I. p. 225); d in default imprisonment for not exceeding three calendar onths, unless the amount be sooner paid (Id. s. 22, Id. p. 228). would seem, however, that such a claim comes within the opera- n of sect. 6 of the Summary Jurisdiction Act, 1879, and is coverable as a civil debt.

Forms.] Forms of Complaint, Summons, Order, &c. are given in hedule to the act, and are set out in Oke's "*Formulist*," 6th ed.

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64 See sect. 30, *supra*, for the evidence of a child being in the school.
65 See *Note* 55, *ante*, p. 1436, for definition of "two justices."

29 & 30 Vict. c. 102.

pp. 795—797. Nos. 6 to 11. Sect. 52 provides that "no notice or order made for the purpose of carrying into provisions of this act shall be invalidated for want of fo and the forms in the schedule to this act annexed, or for like effect, may be used in the cases to which they refer, variations as circumstances require, and when used shall b sufficient."

LAND IMPROVEMENT.

27 & 28 Vict. c. 114.

Compensation for damage done by entry on lands to repa &c., is to be determined by two justices, under "The Land Consolidation Act, 1845" (s. 73). See tit. "*Lands Cla post*, p. 1446.

LANDLORD AND TENANT.

1 & 2 Vict. c. 74.

Recovering Possession of Tenements not exceeding £20 a ye By 1 & 2 Vict. c. 74, s. 1, when and so soon as the term or of the tenant of any house, land or other corporeal heredit held by him at will or for any term not exceeding seve either without being liable to the payment of any rent, or a not exceeding the rate of £20 a year [even where the *annu* exceeds that sum, see *Earl of Harrington* v. *Ramsay*, 22 L. J. Q. B. 460; Id. Exch. 326; decided under the County Court A and upon which no fine shall have been reserved or made p shall have ended, or shall have been duly determined by notice to quit or otherwise, and such tenant or person occupy same shall neglect or refuse to quit and deliver up possess landlord, or his agent, must serve a notice [describing in it t person giving it is "the owner" or "agent for the owner," *L* v. *Fox*, 26 L. J. (N. S.) C. P. 5] of his intention to apply for tices' warrant to recover possession. This notice is to be "either personally, or by leaving the same with some person in and apparently residing at the place of abode of the per holding over as aforesaid, and the person serving the same read over the same to the person served, or with whom the shall be left as aforesaid, and explain the purport or intent the provided that if the person so holding over cannot be found the place of abode of such person shall either not be know admission thereto cannot be obtained for serving such *summ* the posting up of the said summons on some conspicuous pa the premises so held over shall be deemed to be good service such person" (s. 2). The landlord, or his agent, should then p

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66 By 22 Vict. c. 12, s. 5, this provision is extended to the recov land belonging to the crown, although the term may have exceeded years, or the rent may have been more than £20. See also 27 & 28 c. 57, s. 12, *ante*, p. 1314, tit. "*Admiralty*."

aplaint to two justices acting for the district wherein the s are situate, attaching to it a duplicate of the notice, and evidence of the holding and of the end or determination of ancy, &c., when the justices, or any two of them, may there- sue a warrant under their hands and seals to the constables, nding them "within a period to be *therein named*, not less venty-one, nor more than thirty clear days from the date of arrant," to enter (by force if needful) into the premises and ossession of the same to the landlord or agent (s. 1). **67** tion of warrant to be stayed if tenant enters into a bond to (s. 4). Justices and constables protected (s. 5). Possession e recovered in the county court where the rent does not £50 a year (19 & 20 Vict. c. 108, s. 50); and where it is £20 a year, the proceedings may be either before justices or unty court, the justices' jurisdiction not being taken away County Courts Act as supposed, both statutes having a con- t jurisdiction. **68** No costs can be ordered under the act, and & 12 Vict. c. 43, s. 18, *ante*, pp. 195, 196, does not apply. s of Notices, &c., Nos. 1—3, pp. 807, 808, Oke's "*Formu-* 6th edit.]

1 & 2 Vict. c. 74.

ing Possession of Deserted Premises to Landlord.] By 11 Geo. 2, s. 16, if any tenant at rack rent, or where the rent reserved three-fourths of the yearly value of the demised premises, in arrear for one [half year's, 57 Geo. 3, c. 52,] rent, [or held any demise or agreement, whether written or verbal, although ht or power of re-entry be reserved or given to the landlord e of non-payment of rent, 57 Geo. 3, c. 52], shall desert the ses, and leave the same uncultivated or unoccupied so as no ent distress can be had to countervail the arrears of rent, two es (having no interest in the premises) may, at the request of ndlord or his bailiff or receiver, go upon and view the same, fix on the most notorious part of the premises notice in writing at day (at the distance of fourteen clear days between each they will return to take a second view;—and if on such d view the tenant, or some person on his behalf, shall not r and pay the rent, or there shall not be sufficient distress on

11 Geo. 2, c. 19.

It is doubtful whether the meaning of the act is, that the warrant t be executed before the expiration of 21 days or after 30 days;—or it may be executed at any time within 21 days, but not after 30 days; the statutable form of warrant (Oke's "*Formulist*," 6th ed. pp. 808, supports this latter view. The form was apparently intended to be ted by the justices, and the limit of between 21 and 30 days to be fixed em in the warrant, during which the warrant is to be in force. The es' jurisdiction is not ousted by the tenant setting up the title of a person (*Rees* v. *Davies*, 4 C. B., N. S. 56).

See 1 Steph. Com. 2nd ed. pp. 77, 78; 3rd ed. p. 78. The jurisdic- of justices is expressly recognized by 15 & 16 Vict. c. 79, s. 13, title *lavers*," *ante*, p. 1428, and the acts in *Note* **66**, *supra*.

11 Geo. 2, c. 19.

the premises, then the justices may put the landlord into possession, and the lease to the tenant shall from thence be void. An appeal is given by sect. 17 to the next justices of assize. The justices should make a record of the whole proceedings. [Forms, Nos. 5—7, pp. 809, 810, Oke's "*Formulist*," 6th edit.] An order of restitution may be made, notwithstanding a judgment obtained in the county court for the identical rent in arrear (*In re Emmett*, 14 J. P. 530, 717).

Fraudulent Removal.] Goods may be seized within thirty days after rent due and removal, oath being first made to a justice having jurisdiction before entering a dwelling-house by force to seize them (11 Geo. 2, c. 19, ss. 1, 2, 7). It is usual to take a complaint in writing, and to grant a warrant to aid and assist; but the right to do the latter is very questionable. [Forms, Nos. 8, 9, p. 811, Oke's "*Formulist*," 6th edit.]

Lodgers' Goods Protection.] See 34 & 35 Vict. c. 79, in tit. "*Lodgers' Goods Protection*," *post*.

LANDS CLAUSES ACT. 69

8 & 9 Vict. c. 18.

Arbitrators in Compensation Cases.] By 8 & 9 Vict. c. 18, s. 28, two justices may appoint an umpire if arbitrators have failed to do so, in other than railway cases. Before any arbitrator or umpire shall enter into the consideration of any matters referred to him, he is to make and subscribe a declaration in the presence of a justice (s. 33), and this may be done before *any* justice, it not being necessary to be made in the locality to which the reference is conducted (*Davies* v. *South Staffordshire Railway Co.*, 15 J. P. 787). [Form, No. 3, Oke's "*Formulist*," 6th edit. p. 813.]

Appointment of Surveyor, &c.] The compensation to absent parties for lands taken is to be determined by a surveyor nominated by two justices (s. 58); and upon application by the promoters of the

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69 This act of 8 & 9 Vict. c. 18, is "The Lands Clauses Consolidation Act, 1845," which applies to "every undertaking authorized by any act which shall thereafter [8th May, 1845] be passed, and which shall authorize the purchase or taking of lands for such undertaking, and this act shall be incorporated with such act" (s. 1). By sect. 5, the word "justices" shall mean justices of the peace acting for the county, &c. where the matter requiring the cognizance of any such justice shall arise, and who shall not be interested in the matter [see *Wakefield Local Board of Health* v. *W. Riding and Grimsby Railway Company*, 35 L. J. (N. S.) M. C. 69; 1 L. Rep., Q. B. 84, and *Reg.* v. *Manchester, Sheffield and Lincolnshire Railway Company*, 2 L. Rep., Q. B. 336]; and where such matter shall arise in respect of lands being the property of one and the same party, situate not wholly in any one county, &c. the same shall mean a justice acting for the county, &c. where any part of such lands shall be situate, and who shall not be interested in such matter; and where any matter shall be authorized or required to be done by two justices, the expression "two justices" shall be understood to mean two justices assembled and acting together. This act is incorporated with "The Railways Clauses Act," 8 & 9 Vict. c. 20, for certain purposes (see s. 6). The 8 & 9 Vict. c. 18, has been amended and its provisions extended by 23 & 24 Vict. c. 106.

ing to two justices, and upon such proof as shall be satis- 8 & 9 Vict.
n them that any such party is, by reason of absence from c. 18.
gdom, prevented from treating, or cannot after diligent
be found, or that any such party failed to appear on the
before a jury, such justices are, by writing under their
nominate an able practical surveyor for determining such
stion (s. 59). The surveyor is to make a declaration before
e justices, or one of them, before acting, faithfully to
the duty of valuing (s. 60). [Form, No. 4, p. 813, Oke's
list," 6th edit.]

ustices may appoint a third surveyor to value lands [or
rent-charge, annual feu-duty, or ground annual, 23 & 24
06, s. 4] purchased from parties under disability, if the two
s nominated by the parties cannot agree in the valuation
[Form, Oke's "*Formulist*," 6th edit. p. 812, No. 2.]

ike, previous to entry of promoters before purchase or
nt entered into on making deposit at Bank of England and
ond, the sureties being approved by the justices (s. 85).
No. 13, p. 818, Oke's "*Formulist*," 6th ed.] This provi-
rever, does not extend to railway companies exercising
ers of the section after 20th August, 1867 (30 & 31 Vict.
. 36, which substitutes other provisions in such cases).

rtionment of Rents.] Two justices to settle apportionment
hold rents on lands required to be taken, if the owner of
ds, the lord of the manor and the promoters cannot agree

ike of rent services, rent charges, &c. (s. 116).

ike, rent of lands subject to leases (s. 119).

ficate of Capital.] By sect. 16, the capital is to be subscribed,
ontract before compulsory powers of purchase put in force;
sect. 17, "a certificate under the hands of two justices,
ng that the whole of the prescribed sum has been sub-
, shall be sufficient evidence thereof, and on the application
promoters of the undertaking, and the production of such
e as such justices think proper and sufficient, such justices
rant such certificate accordingly." [Form, Oke's "*Formulist*,"
it. p. 812, No. 1.]

ates as to Compensation for Lands not exceeding £50, or under
Tenancies.] By sect. 21, "if for twenty-one days after the
of such notice [*i.e.* notice to owners and occupiers of intention
lands, ss. 18, 19, 20], any such party shall fail to state the
ulars of his claim in respect of any such land, or to treat with
omoters of the undertaking in respect thereof, or if such party
he promoters of the undertaking shall not agree as to the
nt of the compensation to be paid by the promoters of the
taking for the interest in such lands belonging to such party,

or which he is by this or the special act enabled to sell, damage that may be sustained by him by reason of the [illegible] of the works, the amount of such compensation shall be the manner hereinafter provided for settling cases o[illegible] compensation." By sect. [illegible] "if no agreement be come [illegible] the promoters of the undertaking and the owners of or [illegible] this act enabled to sell and convey or release any lands required for or injuriously affected by the execution of t[illegible] taking, or any interest in such lands, as to the value of [illegible] or of any interest therein, or as to the compensation to b[illegible] respect thereof, and if in any such case *the compensati[illegible] shall not exceed fifty pounds*, the same shall be settle[illegible] justices." 70 [Form of Application and Order, &c., N[illegible] pp. [illegible] Oke's "*Formulist*," 6th ed.] By sect. 121, such lands [subject to leases] shall be in the possessio[illegible] person having no greater interest therein than as tenant for [illegible] from year to year, and if such person *be required to give up* [illegible] of any lands so occupied by him before the expiration of [illegible] or interest therein, he shall be entitled to compensation for [illegible] of his unexpired term or interest in such lands, 71 and for [illegible] allowance which ought to be made to him by an incoming [illegible] and for any loss or injury he may sustain, or if a part only [illegible] lands be required, compensation for the damage done to hi[illegible] tenancy by severing the lands held by him, or otherwise inj[illegible] affecting the same;—and the amount of such compensati[illegible] be determined by two justices, in case the parties differ al[illegible] same;—and upon payment or tender of the amount of su[illegible]

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70 As respects the term "injuriously affected" when no par[illegible] premises is taken, there have been several conflicting decisions u[illegible] words in sect. 68; the latest of these decisions are *Ricket* v. *Me[illegible] Railway Company*, 34 L. J. (N. S.) Exch. Ch. 257; 12 Law T., N[illegible] in error; and *Brand* v. *Hammersmith and City Railway Company*, 1 [illegible] Q. B. 130, reversed in error, 2 L. Rep., Q. B. 223. If the compe[illegible] claimed exceeds £50, it is to be settled by arbitration or a jury, [illegible] option of the party claiming the compensation (ss. 23, 25—37; [illegible] sect. 33, the arbitrator or umpire is to make a declaration before a[illegible]

71 A tenant from year to year who has received legal notice [illegible] not damnified or entitled to compensation (*Ex parte Merrett*, [illegible] *Portsmouth Railway Company*, 2 Law T., N. S. 471). The sect. 1[illegible] not extend to a case where the land is not touched or taken or re[illegible] to be taken (*Reg.* v. *Metropolitan Railway Company*, 8 Jur., N. S. [illegible] Q. B.; *Herring* v. *Metropolitan Board of Works*, 34 L. J. (N. S.) [illegible] 224), the notice to treat under sect. 18 not being equivalent to re[illegible] possession (*Reg.* v. *Stone*, 35 L. J. (N. S.) M. C. 208; 14 Law T. [illegible] 552). See also *Reg.* v. *Lord Mayor of London*, L. Rep., 2 Q. B. [illegible] a local act, as to jurisdiction, and *Reg.* v. *Vaughan*, 38 L. J. (N. S.) [illegible] 49. For the purpose of determining the compensation the interest [illegible] claimant is to be calculated from the date of the service of notice [illegible] and take possession, and not from the expiration of such notice (*Ex* [illegible] *Lord Mayor of London*, 25 Law T., N. S. 640).

n, all such persons shall respectively deliver up to the 8 & 9 Vict.
rs of the undertaking or to the person appointed by them c. 18.
possession thereof, any such lands in their possession
l for the purposes of the special act." By sect. 24 "it shall
al for any justice, upon the application [made within six
r months, 11 & 12 Vict. c. 43, s. 11, Vol. I. p. 135, *Reg.* v.
and *Bradford Railway Company, Re James Edmondson*,
y noticed, Id. pp. 116, 117] of either party with respect
question of disputed compensation by this or the special act,
act incorporated therewith, authorized to be settled by two
, to summon the other party to appear before two justices,
me to be named in the summons, and upon the appearance
parties, or in the absence of any of them, upon proof of the
vice of the summons, it shall be lawful for such justices to
d determine such question, and for that purpose to examine
rties or any of them, and their witnesses, upon oath,—and the
f every such inquiry shall be in the discretion of such justices,
ey shall settle the amount thereof." By 31 Vict. c. 18, which
ires the board of trade to give an extension of time for
g certain railways, sect. 15, "justices . . . in estimating
mpensation to be made by the company to the owners or
ers of or persons interested in lands, shall have regard to
ake compensation for the additional damage (if any) sus-
l by those owners, occupiers, or persons by reason of any
sion of time under this act." The proceedings at the hearing
e conducted as provided by 11 & 12 Vict. c. 43, Vol. I. pp.
180, and the owner or tenant should begin by proving his
. Although desirable, no order is absolutely necessary to be
in writing (see *Reg.* v. *Boyce Combe*, 32 L. J. (N. S.) M. C. 67).
& 9 Vict. c. 18, s. 63, as to mode of estimating compensation.
ns of Applications, Summons, Order, &c., Nos. 9—12, pp.
818, Oke's "*Formulist*," 6th ed.] The recovery of the amount
t provided for in the act of 8 & 9 Vict. c. 18; but as respects
ays, sect. 6 of "The Railways Clauses Consolidation Act, 1845,"
Vict. c. 20, enacts, that all the provisions of 8 & 9 Vict. c. 18,
be applicable to determining the amount of any such compen-
n, and to enforcing the payment or other satisfaction thereof
(see s. 44). By sect. 140 of the 8 & Vict. c. 20, the amount so
rtained may be recovered by distress of the goods of the com-
y or other party liable; and by sect. 141, if sufficient goods of
company cannot be found, the amount, if not exceeding £20,
be recovered by distress of the goods of the treasurer of the
pany.

Costs of Refusal to give Possession of Land.] By sect. 91, a justice
f grant a warrant of distress for the costs occasioned by a party

8 & 9 Vict. c. 18.

refusing to give possession of land to sheriff, the amount being settled by the sheriff.

Resale of Land.] One justice to take declaration that owner of land intended to be resold refuses to repurchase, &c. (s. 129).

LIGHTHOUSE VESSELS.

25 & 26 Vict. c. 63, s. 13.

The same provisions of "The Merchant Shipping Act, 1854," as stated under the tit. "*Fishing Boats*," *ante*, p. 1401, apply to "sea-going ships belonging to any of the three general lighthouse boards."

LIGHTING AND WATCHING.[72]

3 & 4 Will. 4, c. 90.

Where 3 & 4 Will. 4, c. 90, is in force.] The 3 & 4 Will. 4, c. 90, may be superseded as to "watching," by the Rural Police Acts, and is superseded, as to "lighting," and probably "watching" also, in districts where the Public Health Act is in force. In future, therefore, as to "lighting," the 3 & 4 Will. 4, c. 90, will apply only to those places in which the Public Health Act is *not* in force, and for the purpose of recovering outstanding arrears of rate. [Forms to be used in adopting the 3 & 4 Will. 4, c. 90, Oke's "*Formulist*," 6th ed. pp. 819—823.]

Appointment of Constables.] The constables under this act are appointed by the inspectors elected by the inhabitants in vestry (s. 39); but sect. 42 authorizes any one justice [for the county, &c. in which the parish adopting the act may be situate (s. 77)] to administer the oath to all watchmen, serjeants of the watch and patrols, who are to have all the powers of constables. [Form of Certificate of having taken the Oath, No. 19, p. 827, Oke's "*Formulist*," 6th ed.] *Vide* sect. 41, for the particular duties of constables under the act, in addition to their general duties as peace officers.

Allowance of Inspectors' Annual Accounts.] At each annual meeting the inspectors are to produce their accounts and vouchers of all monies received and paid by virtue of this act for the previous year;—and a duplicate or copy of such accounts, verified on oath before any two justices [of the county, &c. in which the parish adopting the act is situate (s. 77)] by the said inspectors or any

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72 As to the power of chief constables of counties appointed under the County Police Acts, 2 & 3 Vict. c. 93, and 3 & 4 Vict. c. 88, or 19 & 20 Vict. c. 69, for superseding the constables appointed under the 3 & 4 Will. 4, c. 90, see ss. 18, 19 of 19 & 20 Vict. c. 69, *ante*, p. 1374, and 2 & 3 Vict. c. 93, s. 25, and 3 & 4 Vict. c. 88, s. 20; but until the constables are discontinued, the provisions of the 19 & 20 Vict, c. 69, applicable to constables and watchmen of boroughs, are to apply to them; and all the provisions of the 19 & 20 Vict. c. 69, applicable to the watch committee of a borough, are to be applicable to the inspectors under 3 & 4 Will. 4, c. 90.

them, shall be deposited with the said inspectors, and shall 3 & 4 Will. 4, c. 90.
n at all reasonable times to the inspection of all parties
ted (s. 19). Forms, Nos. 16—18 and 20, pp. 826—828, Oke's
alist," 6th ed.]

very of Rates.] The same mode as for poor rates (s. 33), and
ling overseers to have the same powers of collecting, &c.
eding ones, if same not levied previously (s. 35); see tit.
," *post*. [Adapted Form of Complaint, No. 21, p. 828, Oke's
alist," 6th ed.] 73 The proofs necessary would be as fol-
n addition to the usual proof of the making and allowance
rate, its publication, the demand and non-payment:—

Application of three inhabitants to churchwardens to convene a meeting of the parish [or part of the parish (s. 73)]:—when delivered to the churchwardens:—the notice calling the meeting—and its publication in proper time (s. 5).

The meeting (ss. 6, 7). Majority of two-thirds of votes present to determine adoption of the act, and not within a year of a previous meeting at which adoption negatived (ss. 8, 16, *Reg.* v. *Dunn*, 26 L. J. (N. S.) M. C. 74). Those present and not voting cannot be taken into account as assenting to the votes of the majority, but must be counted (*Reg.* v. *Eynsham*, 12 Q. B. 398; 13 Law T. 91). Qualification of voters present (s. 14, and see ss. 6, 20).

Amount fixed to be raised in the year (s. 9). [Forms, Nos. 11—14, Oke's "*Formulist*," 6th ed. pp. 824, 825.]

The persons elected inspectors (s. 17).

Notice of the adoption of the act, and publication thereof (s. 15).

Minutes of inspectors' meeting, ordering amount to be levied by overseers (s. 32, and see ss. 30, 36). Service of inspectors' order on overseers [the churchwardens being included, *Reg.* v. *Banks*, 29 J. P. 421].

covery of Inspectors' Order from Overseers. 74] By sect. 38, in the amount directed by the inspectors' order (see s. 32, and

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As to the justices' protection where the formalities are not observed
aking a rate, see *Wilkinson* v. *Gray*, 9 J. P. 71; *Reg.* v. *Kingswinford*,
J. (N. S.) M. C. 172; *Reg.* v. *Dunn*, *infra*; *Quick* v. *Churchwardens*
Overseers of St. Ives, 2 Law T., N. S. 214; *Reg.* v. *Justices of Liver-*
6 Law T., N. S. 241; *S. C.*, *Ex parte Brown*, *In re The Corporation*
Liverpool, 31 L. J. (N. S.) M. C. 108; *Great Western Railway Company*
Town Council of Maidenhead, 31 L. J. (N. S.) M. C. 113. If the rate is
lity, it need not be quashed; and the subsequent one must be en-
d (*Churchwardens of Potton* v. *Brown*, 10 Law T., N. S. 525).

This case appears not to be within the operation of 11 & 12 Vict.
, so as to allow of its provisions, especially that in sect. 11 (Vol. I.
35), limiting the time of making the complaint to six months, being
ied to it, as no order or adjudication is made. See Id. p. 132; *Reg.* v.
ham Board of Health, *Ex parte Perry*, 1 Law T., N. S. 413, and
Hogan v. *Guest*, 37 L. J. (N. S.) M. C. 59.

3 & 4 Will. 4, c. 90.

Form, No. 15, Oke's "*Formulist*," 6th ed. p. 825) to be paid by the overseers shall not be paid to the treasurer within the time specified (see s. 36) for that purpose in the said order, any justice of the peace upon complaint thereof made to him by the said treasurer, or by any one of the inspectors, may and he is hereby authorized and required to issue a summons under his hand and seal for the said overseers, so refusing or neglecting [or the succeeding overseers to those upon whom the order was served (s. 35)] to pay such money as aforesaid, to appear before two justices of the peace [for the county, &c. in which the parish is situate (s. 77)];—and upon the said overseers appearing, or having been so summoned and not appearing, without some sufficient and reasonable excuse, or not being found, it shall be lawful for the said justices, and they are hereby required, in case the said money is not paid, to issue their warrant for levying the amount, or so much thereof as may be in arrear, by distress and sale of the goods of all or any of the said overseers;—and in case the goods of all the overseers shall not be sufficient to pay the same, the arrears thereof shall be added to the amount of the next levy which shall be directed to be made in such parish for the purposes of this act, and shall be collected by the like method. [Forms, Nos. 22—24, pp. 828, 829, Oke's "*Formulist*," 6th ed.] In addition to the proofs enumerated *supra*, there should be proof of the appointment of the treasurer (ss. 24, 25), and of the non-payment of the order to him (s. 88).

Treasurer and Officers neglecting to account, and rendering Account Books, &c. or not paying over Monies.] See sect. 26, which is similar to sect. 38 of the Highway Act, 5 & 6 Will. 4, c. 50, *ante*, p. 1426. [Forms, Oke's "*Formulist*," 6th ed. p. 829, No. 25, as to forms.]

Appeal.] See *Note* **260**, Vol. I. pp. 542—544.

LOAN SOCIETIES. 75

3 & 4 Vict. c. 110.

Recovery of Notes not exceeding £15.] By 3 & 4 Vict. c. 110, s. 16, after demand in writing made by or on behalf of the treasurer of a loan society on the party intended to be proceeded against, or left or sent by the post to him at his usual place of abode or his place of residence as described in the note to the society, one justice, where the party in default may happen to be or reside, may, on complaint made by or on behalf of the treasurer [within six calendar months from the period when the amount is required by the demand to be paid, 11 & 12 Vict. c. 43, s. 11, Vol. I. p. 135, *Jacomb* v. *Dodgson*, *Note* **56**, Id. p. 152], grant a summons to all the parties liable, or the actual borrower, or any one or more of the sureties, and proceed

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75 The statute 3 & 4 Vict. c. 110, originally intended to be in operation for a year, was continued from time to time, and is now made perpetual by 26 & 27 Vict. c. 56.

and determine the complaint and award the sum appearing 3 & 4 Vict. c. 110.
e to be paid [forthwith and not at a future period, *Parker* v. y, 31 L. J. (N. S.) M. C. 272] to the treasurer, without any of interest, and costs not exceeding 5*s.*; the amount adjudged e to be levied by distress; but the amount of the sum lent not exceed £15 (s. 13). In default of distress imprisonment 11 & 12 Vict. c. 43, s. 22, for not exceeding three calendar s unless sooner paid (Vol. I. p. 228). [Forms, Nos. 1—4, 530, Oke's "*Formulist*," 6th ed.] It would seem that such n comes within the operation of sect. 6 of the Summary Juris- Act, 1879, and is recoverable as a civil debt. The amount so be recovered in the county court (s. 17).

s.] The rules of the society are to be certified by the barrister ted for certifying the rules of savings' banks, and a copy, d by him, is receivable in evidence (see ss. 4, 5, 7); but not- nding the rules are certified, the justice is entitled to inquire atisfy himself as to whether the society is one properly en- to be enrolled under the act (*Reg.* v. *Davis*, 13 Law T., N. S. 30 J. P. 65, 66).

LOCAL GOVERNMENT. See "*Public Health.*"

COMOTIVES. See "*The Highways and Locomotives (Amendment) Act*, 1878" (41 & 42 Vict. c. 77), *ante*, p. 1225.

tices to approve of Locomotives being used on Highways.] 24 & 24 & 25 Vict. c. 70.
ict. c. 70, s. 3, after enacting the Offence 1, Vol. I., p. 546, er provides, "that whereas it may be desirable that locomo- of a [greater width than nine feet and of a greater weight fourteen tons, 28 & 29 Vict. c. 83, s. 5] should be allowed to sed under certain circumstances, any person desiring to use such locomotive on any street or public highway within the of London or the liberties thereof,—or within the limits of the opolis as defined by the 18 & 19 Vict. c. 120 [s. 250],—or in any other city or municipal or parliamentary borough,—or y turnpike road or other public highway,—shall apply within city of London to the lord mayor for the time being,— . . . in other places to the corporation, commissioners, trustees, and eyor, or other persons having the charge of any such street, way, turnpike or other road, over which it may be proposed to such locomotive, for permission to use the same;—and the lord mayor, . . . or such corporation, commissioners, tees, surveyor and other persons as aforesaid shall have power authorize such locomotive to be used on such road or roads, or of any road or roads, and under such condition or conditions to them may appear desirable;—but in the case of the surveyor

24 & 25 Vict. c. 70.

or surveyors of any highway in England no such permission shall be valid without also it be approved by the justices acting in petty sessions for any petty sessional division within which it is proposed to use such locomotive." [Form of Approval, Oke's "*Formulist*," 6th ed. p. 830.]

Local Authorities' Regulations as to Hours for Locomotives passing through Streets, &c.] See 41 & 42 Vict. c. 77, s. 31, *ante*, p. 1237, hereon, *Note* **262**, Vol. I. pp. 546—548.

LODGERS' GOODS PROTECTION.

34 & 35 Vict. c. 79.

Lodger, if Distress levied on his Goods, to make Declaration that immediate Tenant has no Property in Goods distrained.] 34 & 35 Vict. c. 79, "An Act to protect the Goods of Lodgers against Distresses for Rent due to the Superior Landlord," [passed 16th August, 1871], after reciting that "lodgers are subjected to great loss and injustice by the exercise of the power possessed by the superior landlord to levy a distress on their furniture, goods, and chattels for arrears of rent due to such superior landlord by his immediate lessee or tenant," enacts by sect. 1, "If any superior landlord shall levy or authorize to be levied a distress on any furniture, goods, or chattels of any lodger for arrears of rent due to such superior landlord by his immediate tenant, such lodger may serve such superior landlord, or the bailiff or other person employed by him to levy such distress, with a declaration in writing made by such lodger, setting forth that such immediate tenant has no right of property or beneficial interest in the furniture, goods, or chattels so distrained or threatened to be distrained upon, and that such furniture, goods, or chattels are the property or in the lawful possession of such lodger;—and also setting forth whether any and what rent is due and for what period from such lodger to his immediate landlord; **76**—and such lodger may pay to the superior landlord, or to the bailiff or other person employed by him as aforesaid, the rent, if any, so due as last aforesaid, or so much thereof as shall be sufficient to discharge the claim of such superior landlord, [which by sect. 3 is to 'be deemed a valid payment on account of any rent due from him to his immediate landlord']. And to such declaration shall be annexed a correct inventory, subscribed by the lodger, of the furniture, goods, and chattels referred to in the declaration." **77**

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76 This apparently should be in the form of the statutory declaration under the 18th section of the 5 & 6 Will. 4, c. 62 (tit. "*Oaths*," *post*).

77 A lodger making or subscribing such declaration and inventory, knowing the same or either of them to be untrue in any material particular, is to be guilty of an indictable misdemeanor (s. 1). See this tit. in Chap. II. of the Part II., *ante*, p. 1122, Offence 335.

ke's Order for Restoration of Goods distrained.] By sect. 2, 34 & 35 Vict. c. 79.
y superior landlord, or any bailiff or other person employed
n shall, after being served with the before-mentioned decla-
and inventory, and after the lodger shall have paid or ten-
to such superior landlord, bailiff, or other person the rent, if
which by the last preceding section such lodger is authorized
y, shall levy or proceed with a distress on the furniture,
, or chattels of the lodger, such superior landlord, bailiff, or
person shall be deemed guilty of an illegal distress, and the
r may apply to a justice of the peace for an order for the
ation to him of such goods;—and such application shall be
l before a stipendiary magistrate, or before two justices in
s where there is no stipendiary magistrate, and such magis-
or justices shall inquire into the truth of such declaration
nventory, and shall make such order for the recovery of the
s or otherwise as to him or them may seem just,—and the
rior landlord shall also be liable to an action at law at the suit
e lodger, in which action the truth of the declaration and in-
ory may likewise be inquired into."
se Form Distress, No. 8, Oke's "*Formulist*," 6th ed., 154.)

LODGING HOUSES.

The Common Lodging Houses Act, 1851," *is repealed by* "*The lic Health Act,* 1875," *s.* 343, *sch.* 5, *except so far as relates to Metropolitan Police District.*

I. *Common Lodging Houses.*
II. *Lodgings for Labouring Classes.*

I. *Common Lodging Houses.*

Registration, Bye-Laws, &c.] By "The Common Lodging Houses 14 & 15 Vict. c. 28.
t, 1851," 14 & 15 Vict. c. 28, s. 6, the "local authority" was,
thin three months after the passing of the act [24th July, 1851],
d from time to time thereafter to give the keeper of every common
lging house notice in writing of this act, and require the keeper
register his house; but 16 & 17 Vict. c. 41, s. 3, prohibits the
ening of such a house, and does not render a notice necessary.
r sect. 7, the local authority is to keep a register of the houses;
d by sect. 9, may make regulations respecting common lodging
uses for all or any of the purposes for which the local board of
alth are by "The Public Health Act, 1848," authorized to make
ye-laws [*i. e.* for fixing the number of lodgers who may be received
to each registered house, for promoting cleanliness and ventilation
herein, and with respect to the inspection thereof, and the con-
itions and restrictions under which such inspection may be made

14 & 15 Vict. c. 28.

(11 & 12 Vict. c. 63, s. 66)], and for the well ordering of such lodging houses, and for the separation of the sexes therein, which regulations are to be confirmed by the secretary of state, and may impose penalties on offenders:—and a copy purporting to be signed by the secretary of state, and also to be signed by the local authority (or sealed if it have a seal), is to be receivable in evidence of such regulations, and of the duly making and confirming thereof (s. 10). By 16 & 17 Vict c. 41, the local authority may refuse to register houses, if keepers do not produce certificate of character (s. 4); a copy of the entry in the registry is evidence (s. 5); power to local authority to require an additional supply of water to lodging houses (s. 6); may order removal of sick persons from lodging houses to hospitals, &c. (s. 7); may order reports from keepers of lodging houses kept for beggars and vagrants (s. 8); may remove nuisances in or about a lodging house, as other bodies may do under Nuisances Act (s. 9). The expenses of executing the act by justices are to "be paid" as part of the general expenses of the constablewick of the place (14 & 15 Vict. c. 28, s. 4), and in places where the acts are executed by justices in petty sessions, out of the poor rates of the several parishes in proportion ordered by the justices (16 & 17 Vict. c. 41, s. 14).

II. *Lodgings for Labouring Classes.*

14 & 15 Vict. c. 34.

"The Labouring Classes Lodging Houses Act, 1851," 14 & 15 Vict. c. 34, which may be adopted by the local authorities, is for the purpose of encouraging the establishment of well-ordered lodging houses for these classes, and has been adopted only to a limited extent. The act is amended by 29 Vict. c. 28, and 30 Vict. c. 28.

Officers not accounting—Recovery of Damages.] Sect. 33 incorporates (*inter alia*) the provisions of "The Companies Clauses Act, 1845," 8 & 9 Vict. c. 16, with respect to the accountability of officers (ss. 100—114) and the recovery of damages, &c. (ss. 142—160). See *ante*, p. 1350, tit. "*Companies Clauses Act.*"

Disputes as to Compensation for Lands.] Sect. 34 incorporates "The Lands Clauses Consolidation Act, 1845," 8 & 9 Vict. c. 18. with it. See the matters treated of under tit. "*Lands Clauses Act,*" *ante*, pp. 1446—1447.

LONDON.

We propose to give under this title a reference, more or less full, 79 to the principal statutes and sections relating *exclusively* to

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79 It would occupy much more space than can be allotted to them in this work to give these enactments in any other form than is here adopted; and indeed, if given more fully, would be of very little use to the large majority of the purchasers of this work. To others, the information here afforded will in most cases be sufficient for all the purposes of a quick reference.

ocedure before and to subjects which are cognizable by the racy of the city of London and the other parts of the metro- nd within the metropolitan police district. We would observe lly, that all the matters within the jurisdiction of the country s under general acts applicable to the whole kingdom are, few exceptions (which are at once known by the context of spective titles), cognizable also by the several magistrates of etropolis when the offences are committed or the matters arise

I. *Police Authorities and Magisterial Districts, &c.*
II. *Jurisdiction and Procedure before Magistrates.*
III. *Offences and Matters of Jurisdiction, &c.*

I. *Police Authorities and Magisterial Districts, &c.*

y of London Police Force.] Established by 2 & 3 Vict. c. xciv.

tropolitan Police Force.] Established by 10 Geo. 4, c. 44; ded by 3 & 4 Will. 4, c. 89; 2 & 3 Vict. c. 47; 3 & 4 Vict. c. 84; ict. c. 2; 20 & 21 Vict. c. 64; 23 & 24 Vict. c. 135; 24 & 25 c. 51; 24 & 25 Vict. c. 124; 30 & 31 Vict. c. 39 (Receiver), and 35 Vict. c. 75 (Metropolitan Police Buildings).

Metropolitan Police District."] Defined and limited by 10 Geo. 4, ss. 4, 34; 2 & 3 Vict. c. 47, s. 2, and excludes the city of Lon- ; includes the whole of Middlesex, and parts of the counties of rey, Hertford, Essex and Kent, within a radius of about fifteen s from Charing Cross.

Metropolis."] In recent legislation this term *includes* the city of don, as for instance, Metropolitan Local Management (18 & 19 t. c. 120, s. 250), which is extended to the Building Act (18 & 19 t. c. 122, s. 4); to the Gas Act (23 & 24 Vict. c. 125, s. 4); and "The Metropolitan Poor Act, 1867" (30 Vict. c. 6, s. 3); Metro- itan Burials Act (15 & 16 Vict. c. 85, s. 53), extended to Smoke isances (16 & 17 Vict. c. 128, s. 6), and Fire Brigade (28 & 29 t. c. 90, s. 2); Public Health Act, 1875.

Central Criminal Court.] The limits of this court are defined by 5 Will. 4, c. 36, s. 2, to be the:—city of London;—county of ddlesex;—parts of Essex, viz., parishes of Barking, East Ham, st Ham, Little Ilford, Low Layton, Walthamstow, Wanstead, Mary, Woodford and Chingford;—parts of Kent, viz., parishes Charlton, Lee, Lewisham, Greenwich, Woolwich, Eltham, Plum- nd, St. Nicholas Deptford, St. Paul Deptford (part of), the liberty Kidbrooke and the hamlet of Mottingham;—parts of Surrey, viz., borough of Southwark, the parishes of Battersea, Bermondsey, mberwell, Christchurch, Clapham, Lambeth, St. Mary Newington, therhithe, Streatham, Barnes, Putney, St. Paul Deptford (part of), oting Graveney, Wandsworth, Merton, Mortlake, Kew, Richmond,

[illegible] the Link Liberty and the district of Lambeth [illegible] other respects by 7 Will. 4 [illegible] 14 & 15 Vict. c. 55, s. 13. See [illegible] as to the removal of [illegible]

[illegible] The divisions assigned [illegible] police districts are fixed by [illegible] 2 & 3 Vict. c. 71, ss. 1, 2), [illegible] 3 & 4 Vict. c. 84, s. 2). The [illegible] are called "justice rooms" (11 & [illegible] s. 34).

[illegible] 7 & 8 Vict. c. 71; 14 & [illegible] Vict. c. 4. Petty sessional di[illegible] 12, s. 6; 14 & 15 Vict. c. 55

[illegible] The lord mayor, aldermen, and recorder of th[illegible] the county justices; and the police c[illegible] whose several powers and jurisdi[illegible] the different parts of the metropolis are briefly stated under t[illegible]

[illegible] Jurisdiction and Procedure before Magistrates.

[illegible] The jurisdiction of the several magistrates [illegible] summarized:—

1. As regards the City Justices.]—They have exclusive ju[illegible] within the city in the matters arising there, exce[illegible] few cases: 80 one justice has, in all ordinary cases, the [illegible] two justices (11 & 12 Vict. c. 43, s. 34; 11 & 12 Vict. [illegible] s. [illegible]), and the same jurisdiction over offences as a [illegible] magistrate has out of the city under 2 & 3 Vict. cc. 4[illegible] and 3 & 4 Vict. c. 84, s. 6. 81 They cannot act al[illegible]

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80 Under certain statutes, the police magistrates have author[illegible] regard to offences and matters actually arising within the city, [illegible] (1.) Offences against the Hackney Carriage Act (16 & 17 Vict. c. 3[illegible] and see 1 & 2 Will. 4, c. 22, s. 62), but not under the other acts—[illegible] currently with the city justices: (2.) Offences and cases under the M[illegible] politan Buildings Act (18 & 19 Vict. c. 122, s. 103), concurrently [illegible] the city justices: (3.) Excise and post office cases are also taken at [illegible] Street Police Court, except misdemeanors occurring within the [illegible] (4.) A Bow Street police magistrate has special and exclusive powers [illegible] "The Extradition Act, 1870," 33 & 34 Vict. c. 52 (see *ante*, p. 914). [illegible] same power is given as to the apprehension of ticket-of-leave m[illegible] 16 & 17 Vict. c. 99, s. 11.

81 The jurisdiction given to them by 3 & 4 Vict. c. 84, s. 6, [illegible] others, is,—power to inquire into and declare fairs unlawful (2 & [illegible] c. 77, s. 39); to punish summarily for unlawful possession of goods [illegible] Vict. c. 71, ss. 24, 26); to order delivery of goods stolen, &c., [illegible] possession of brokers, constables, &c. (ss. 27, 28, 29); or goods, &c. [illegible] lawfully detained from owners (s. 40); and to punish summarily [illegible] variety of offences and nuisances against those acts, as well as [illegible] the 10 Geo. 4, c. 44, which is to be construed as one act [illegible]

pecial or petty sessions, nor under Criminal Justice and Juvenile Offenders Acts, and some other cases necessary to be heard "in petty sessions" under recent acts, like a police magistrate can. 82 Their warrants can be executed within the five metropolitan counties of Middlesex, Surrey, Kent, Essex and Hertford, without being backed by a local justice (2 & 3 Vict. c. xciv. s. 23). They have jurisdiction in quarter sessions, like county justices, except as to gaols, the prison authorities for the city being the "Court of the Lord Mayor and Aldermen" (28 & 29 Vict. c. 126, ss. 5, 6).

As regards the Police Magistrates.]—They are justices of Middlesex, Surrey, Herts, Essex and Kent, the chief magistrate at Bow Street being also for Berks (2 & 3 Vict. c. 71, ss. 1, 3; 11 & 12 Vict. c. 42, s. 31): They have exclusive jurisdiction in summary convictions and indictable offences within the divisions assigned to police courts (2 & 3 Vict. c. 71, s. 18; 21 & 22 Vict. c. 73, s. 6): They cannot act in special or petty sessions either within or without the divisions assigned to police courts, or in quarter sessions (2 & 3 Vict. c. 71, s. 14): Within the metropolitan police district, but without the divisions assigned to the police courts, they have as police magistrates concurrent jurisdiction with the ordinary county justices in all summary convictions (2 & 3 Vict. c. 71, ss. 13, 18, 44; 2 & 3 Vict. c. 47, s. 76): Without the part of the metropolitan police district assigned to a police court (and in the counties for which they are justices) they have, as justices, concurrent jurisdiction with the ordinary county justices in summary convictions and indictable offences under the general laws, which arise out of a court division (3 & 4 Vict. c. 84, s. 2), and in one instance a special jurisdiction there as police magistrates (3 & 4 Vict. c. 84, s. 13): When they act as police magistrates within a court division, whether where one justice or more is necessary,

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2 & 3 Vict. c. 47, s. 79; 2 & 3 Vict. c. 71, s. 55). They have powers given them also by 3 & 4 Vict. c. 84, ss. 9, 11; but not that in sect. 13, authorizing one police magistrate to direct a constable to view deserted premises under 11 Geo. 2, c. 19, and 57 Geo. 3, c. 52. In certain poor-law matters under 43 Eliz. c. 2, only the lord mayor or an alderman "within his ward" may act alone (43 Eliz. c. 2, s. 8); and so he may in relation to licences under "The Refreshment Houses Act," 23 Vict. c. 27, which a police magistrate cannot do.

82 The cases referred to are,—orders abating nuisances (18 & 19 Vict. c. 121, s. 12); granting licences for passage brokers and emigrant runners (18 & 19 Vict. c. 119, ss. 67, 76); making orders in bastardy (7 & 8 Vict. c. 101, s. 2; 8 Vict. c. 10, s. 9); and orders protecting earnings of wives deserted by their husbands (20 & 21 Vict. c. 85, s. 21, which act is, however, not applicable to the city justices, see *Note* 36, *ante*, p. 1375). Also a few other cases to which the 11 & 12 Vict. c. 43, s. 34, does not extend.

and in some cases where ordinarily they must be heard before two or more justices in petty sessions, they may do so alone, but it must be at a police court (2 & 3 Vict. c. 71, ss. 13, 14; as to petty sessions, see *Note* 82): They may act as justices *alone* (in cases where only one justice is required) elsewhere than at a police court (3 & 4 Vict. c. 84, s. 2): They may act anywhere as justices *with* the ordinary justices in other matters than in special, petty or quarter sessions (3 & 4 Vict. c. 84, s. 2): Their warrants to apprehend issued as police magistrates can be executed throughout England without being backed (2 & 3 Vict. c. 71, s. 17): They have, as police magistrates, concurrent jurisdiction with the city justices in certain cases within the city (see *Note* 80).

3. As regards the ordinary County Justices.]—Within the divisions assigned to police courts they have no authority to act in matters arising within such divisions, except in special, petty and quarter sessions, and in enforcing rates, &c. (2 & 3 Vict. c. 71, ss. 14, 18; 3 & 4 Vict. c. 84, s. 6; 21 & 22 Vict. c. 73, s. 6): Without the divisions assigned to police courts they have concurrent jurisdiction with the police magistrates (as police magistrates and as justices) in summary convictions and indictable offences (2 & 3 Vict. c. 71, s. 18; 3 & 4 Vict. c. 84, s. 6): Without the divisions assigned to police courts they have exclusive jurisdiction in matters in special, petty and quarter sessions (2 & 3 Vict. c. 71, ss. 14, 18; 21 & 22 Vict. c. 73, s. 6): Two of them sitting publicly have the same jurisdiction as a police magistrate over the offences created by 2 & 3 Vict. cc. 47, 71 (3 & 4 Vict. c. 84, s. 6, in *Note* 81): Their warrants can be executed within the city of London without being backed (2 & 3 Vict. c. xciv. s. 23).

4. As regards "the Commissioner of Police of the Metropolis" and the two "Assistant Commissioners," and their Powers as Justices.]—They are justices, with a limited jurisdiction in the seven counties of Middlesex, Surrey, Hertford, Essex, Kent, Berks and Bucks (10 Geo. 4, c. 44, s. 1; 2 & 3 Vict. c. 47, s. 4; 19 & 20 Vict. c. 2, s. 2): *Anywhere* within the first five counties (whether within the metropolitan police district or that of a police court or not), and in Berks and Bucks, each can act alone "*for the preservation of the peace*" (Id.): Within any part of these seven counties outside the divisions assigned to police courts each can act alone in "*the committal of offenders*" (Id.): Throughout the metropolitan police district the commissioner has exclusive jurisdiction to enforce payment of the police rate and swear in constables (10 Geo. 4, c. 44, ss. 1, 4, 23—26, 32).

ocedure before City Justices in Ordinary Cases—in Special Cases, Jurisdiction."] Information (2 & 3 Vict. c. xciv. s. 100); time & 12 Vict. c. 43, s. 11); summons, and to witnesses (2 & 3 Vict. xiv. ss. 97,100); execution of warrant (s. 23); one justice to ict (ss. 97, 99); enforcing penalty, &c. (ss. 97, 98; 11 & 12 Vict. . s. 22); appeal only against conviction for *offence against the* 1 & 3 Vict. c. xciv. s. 101); application of penalties (s. 97); rs of police magistrates under 2 & 3 Vict. cc. 47, 71, as to dure given to two justices (3 & 4 Vict. c. 84, ss. 6, 15), and 1 & 12 Vict. c. 43, s. 34, to one justice. All other provisions & 12 Vict. c. 43, and c. 42, and 28 & 29 Vict. c. 127, also y.

ocedure before the Police Magistrates—in Special Cases: see *risdiction.*"] Information (2 & 3 Vict. c. 71, ss. 44, 48), and in 6 cal. months (s. 44 [but see 30 & 31 Vict. c. 82, s. 4]; for ses against 10 Geo. 4, c. 44, within 3 months, s. 36); summons warrant (ss. 19, 20, 21); summons to witnesses everywhere 2); execution of warrant to apprehend without backing any-re (s. 17); one magistrate to convict (2 & 3 Vict. c. 47, s. 76; 3 Vict. c. 71, ss. 13, 14, 44 [but see 30 & 31 Vict. c. 82, s. 4]; & 12 Vict. c. 43, s. 33); enforcing penalty, &c. (2 & 3 Vict. 7, s. 77; 2 & 3 Vict. c. 71, s. 45; mitigation and lessening in-er's share of penalties (2 & 3 Vict. c. 71, ss. 34, 35; penalties e paid to receiver (10 Geo. 4, c. 44, s. 37: 2 & 3 Vict. c. 47, 7; 2 & 3 Vict. c. 71, s. 47; and see *Wray* v. *Ellis*, 28 L. J. S.) M. C. 45); appeal against *any* order or conviction of police gistrate (2 & 3 Vict. c. 71, s. 50); fees at police courts (2 & 3 . c. 71, s. 43). All other provisions of 11 & 12 Vict. c. 43, c. 42, and 28 & 29 Vict. c. 127, also apply.

ocedure before County Magistrates.] 2 & 3 Vict. c. 47, s. 76; 4 Vict. c. 84, s. 6, gives powers, &c. of police magistrates under 3 Vict. cc. 47, 71, to two justices. Fees (2 & 3 Vict. c. 71, 2). Of course all the provisions of 11 & 12 Vict. cc. 42, 43, 28 & 29 Vict. c. 127, also apply.

III. *Offences and Matters of Jurisdiction, &c.* 83

ance Language, &c.] City: 2 & 3 Vict. c. xciv. s. 35, sub-s. 13. Metropolis: 2 & 3 Vict. c. 47, s. 54, sub-s. 13.

*lteration of Food and Drugs** (Vol. I. p. 284.] 23 & 24 Vict. c. 84, s. 2, local authority.

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83 The asterisk * placed after some of the subjects or titles means that act or acts cited relate to the metropolis generally, including the city. any of the subjects in the acts as to the metropolis are also within the nizance of the city and county justices by virtue of 3 & 4 Vict. c. 84, 6, 15. The word "metropolis" here used means the parts outside the y.

*Advertising Vehicles, &c.**] 16 & 17 Vict. c. 33, ss. 15, 16. See "*Placards.*"

Apprentices (Vol. I. p. 296 and 1327).] Jurisdiction of chamberlain of city saved (4 Geo. 4, c. 34, s. 6; *Note* 16, Vol. I. p. 296).

Arrest without Warrant by Constables.] City: 2 & 3 Vict. c. xciv. ss. 35, 43—50. Metropolis: 2 & 3 Vict. c. 47, ss. 54, 62—69; 27 & 28 Vict. c. 55, s. 1.

*Ashes.**] Hours of scavengering, 30 & 31 Vict. c. 134, s. 5; (City), Id. s. 25.

*Asylum for Houseless Poor.**] (District School), 7 & 8 Vict. c. 101, ss. 41—55. See "*Houseless Poor.*"

Bailing Prisoners by Constables.] City: 2 & 3 Vict. c. xciv. ss. 51, 52, 53. Metropolis: 2 & 3 Vict. c. 47, ss. 70, 71, 72.

*Bakehouses** (Vol. I. p. 306).] Local authority, same as under Local Management Act, 18 & 19 Vict. c. 120 (26 & 27 Vict. c. 40, s. 2).

*Ballast.**] Throwing into Thames; 20 & 21 Vict. c. cxlvii. ss. 101, 102; 27 & 28 Vict. c. 113, s. 74.

*Bargemen's Wages.**] 2 & 3 Vict. c. 71, s. 37.

Beadles.] City: not collecting rates, 2 & 3 Vict. c. cxiv. ss. 79, 80.

*Beerhouses** (Vol. I. p. 312).] 3 & 4 Vict. c. 61, s. 15; (City), 18 & 19 Vict. c. 118, s. 2.

Bell Pulling, &c.] City: 2 & 3 Vict. c. xciv. s. 35, sub-s. 16. Metropolis: 2 & 3 Vict. c. 47, s. 54, sub-s. 16.

*Betting Houses** (Vol. I. p. 312).] Metropolis: 16 & 17 Vict. c. 119, s. 12.

*Betting in Streets.**] 30 & 31 Vict. c. 134, s. 23.

Billingsgate Market.] See "*Markets.*"

Bill Posting, &c.] City: 2 & 3 Vict. c. xciv. s. 85, sub-s. 10. Metropolis: 2 & 3 Vict. c. 47, s. 54, sub-s. 10.

*Bread and Flour.**] 3 Geo. 4, c. cvi.

Brokers of City.] 6 Anne, c. 68; 67 Geo. 3, c. lx; 33 & 34 Vict. c. 60.

*Buildings, Metropolitan.**] 7 & 8 Vict. c. 84, ss. 54—63; 18 & 19 Vict. c. 122; 23 & 24 Vict. c. 52; 24 & 25 Vict. c. 87; 32 & 33 Vict. c. 82; 34 & 35 Vict. c. 39.

Bumboats on Thames.] Regulation of, 27 & 28 Vict. c. 113, s. 64.

Burials.] City: 15 & 16 Vict. c. 85; 20 & 21 Vict. c. 35; 14 & 15 Vict. c. xci. ss. 32 to 36. Metropolis: 15 & 16 Vict. c. 85; 16 & 17 Vict. c. 134; 18 & 19 Vict. c. 128; 20 & 21 Vict. c. 81; (Bunhill Fields burial ground), 30 & 31 Vict. c. 38.

*Burning by Servants.**] The offence, Vol. I. p. 326, as regards the metropolitan police district will no longer apply, as the 14 Geo. 3, c. 78, s. 84, was repealed by 28 & 29 Vict. c. 90, s. 34, from 1st January, 1866.

*Hackney Carriages.**] (Definition), 1 & 2 Will. 4, c. 22, s. 4, d 32 & 33 Vict. c. 115, s. 4; 6 & 7 Vict. c. 86, s. 2; 16 & 17 ct. c. 127, s. 17. (Licences), 32 & 33 Vict. c. 115, ss. 6, 7, 9, d Home Secretary's Regulations of 10th March, 1871, Nos. 2 18, 41; 16 & 17 Vict. c. 33, s. 1; 16 & 17 Vict. c. 127, s. 7, lates on), 1 & 2 Will. 4, c. 22, ss. 20—25; and 29 & 30 Vict. 64, s. 10, as to Plates on Sunday Cabs. (Standings for) City: & 2 Will. 4, c. 22, s. 54. Metropolis: 6 & 7 Vict. c. 86, s. 29; & 14 Vict. c. 7, s. 4; 16 & 17 Vict. c. 33, ss. 12, 13. (Licences Drivers, and Tickets), 6 & 7 Vict. c. 16, ss. 8 to 26; 32 & 33 ict. c. 115, s. 8, and Regulations 36—38. (Fares) amount, 16 17 Vict. c. 33, ss. 4 to 10; 16 & 17 Vict. c. 127, ss. 13, 14, 15; & 31 Vict. c. 134, s. 26; but now Home Secretary's Regulaons of 10th March, 1871, Nos. 19—26; disputes, 16 & 17 Vict. 33, s. 18; recovery, 1 & 2 Will. 4, c. 22, s. 41; exacting ore, 1 & 2 Will. 4, c. 22, ss. 42, 44; 16 & 17 Vict. c. 33, s. 17. Misbehaviour, &c., by Drivers or Watermen, &c.), 1 & 2 Will. 4, c. 22, ss. 54, 42, 48, 55; 16 & 17 Vict. c. 33, ss. 17, 5, 9; 6 & 7 Vict. c. 86, ss. 10, 17, 27, 18, 32, 28, 33, and Home ecretary's Regulations of 10th March, 1871, Nos. 27—30, 36 —41; complaint to be made within 7 days, sect. 38; proprietor liable, sect. 35. (Lost Property), 16 & 17 Vict. c. 33, 11, and Home Secretary's Regulations of 10th March, 1871, Nos. 33—35. (Appointment of Watermen), 6 & 7 Vict. c. 86, 8; (Lamps to be provided, and Cabs fit for use), 30 & 31 Vict. c. 134, s. 17; 31 Vict. c. 5, s. 2.

t Beating.] City: 2 & 3 Vict. c. xciv. s. 41, sub-s. 3. Metropolis: 2 & 3 Vict. c. 47, s. 60, sub-s. 3.

iages, Routes for.] See "*Routes for Carriages.*"

iers.] See "*Porters.*"

.] Name of owner not on, 1 & 2 Will. 4, c. 22, ss. 59, 60; 6 & 7 Vict. c. 86, s. 4. Time of loading or unloading, or laden with timber, &c.,* 30 & 31 Vict. c. 134, ss. 15, 16.

*k Diseases.**] Local authorities, 32 & 33 Vict. c. 70, s. 9, and 2nd Schedule.

*le Driving.**] Metropolitan Market Act, 20 & 21 Vict. c. cxxxv. ss. 18, 19, 21, 40; Islington Parish Act, 20 & 21 Vict. c. xxi. ss. 3, 4, as to Sunday; 30 & 31 Vict. c. 134, s. 7.

teries.] See "*Burials.*"

Traffic Regulations.] See "*Traffic Regulations.*"

*l and Wine Duties.**] 24 & 25 Vict. c. 42; 26 & 27 Vict. c. 46; 31 Vict. c. 17.

*ls.**] 1 & 2 Will. 4, c. lxxvi.; 1 & 2 Vict. c. ci.; 8 & 9 Vict. c. 101; 14 & 15 Vict. c. cxlvi.; 20 & 21 Vict. c. lxxxix. Time of delivery, 30 & 31 Vict. c. 134, s. 15.

*ssmissionnaires.**] 30 & 31 Vict. c. 134, ss. 19, 20.

Commons.] See "*Metropolitan Board of Works.*"

*Compounding Informations.**] 2 & 3 Vict. c. 71, s. 33.

Conservators of the River Thames.] See "*Thames.*"

Constables (*City Police Force*).] Neglect of duty, &c., 2 & 3 Vict. c. xciv. ss. 15, 16, 17. Assaults on, &c., Id. s. 19. See "*Arrests, &c.,*" "*Bailing Prisoners, &c.*"

Constables (*Metropolitan Police Force*).] Neglect of duty, &c., 2 & 3 Vict. c. 47, ss. 14, 15, 16. Assaults, &c. on, Id. s. 18. Publicans harbouring, 10 Geo. 4, c. 44, s. 6. At dockyards, 23 & 24 Vict. c. 135; 24 & 25 Vict. c. 51 (Vol. I. p. 360). Receiver of metropolitan police district, 30 & 31 Vict. c. 39, and earlier acts, see "*Receiver of Metropolitan Police District.*" See "*Arrests, &c.,*" "*Bailing Prisoners, &c.*"

Cook Shops.] City: 2 & 3 Vict. c. xciv. s. 28. Metropolis: 2 & 3 Vict. c. 47, s. 44.

Courts of Justice.] (Building), 28 Vict. c. 48; (Site), 28 Vict. c. 49; 29 & 30 Vict. c. 63; 34 & 35 Vict. c. 57.

Cow Houses.] Same as "*Slaughter Houses.*"

Crossing Sweepers.] Metropolis: 18 & 19 Vict. c. 120, s. 118.

Cruelty to Animals.] See "*Cock Fighting.*"

Damage by Offenders.] City: 2 & 3 Vict. c. xciv. s. 43. Metropolis: 2 & 3 Vict. c. 47, s. 62.

*Dancing and Music Licences.**] 25 Geo. 2, c. 36.

*Dangerous Structures.**] See "*Ruinous Buildings.*"

Deserted Premises.] Police magistrates only: 3 & 4 Vict. c. 84, s. 13. See "*Landlord and Tenant.*"

*Detaining Goods.**] Value not above £15...2 & 3 Vict. c. 71, s. 40.

*Distresses.**] Oppressive, 2 & 3 Vict. c. 71, s. 39.

District Boards and Vestries.] See "*Local Management.*"

Divorce (*ante*, pp. 1275, 1377).] Metropolis only: 20 & 21 Vict. c. 85, s. 21; 27 & 28 Vict. c. 44.

Dogs (Vol. I. p. 398, *Offence* 2, and p. 1379).] Using in cart—(City): 2 & 3 Vict. c. xciv. s. 39. (Metropolis): 2 & 3 Vict. c. 47, s. 56. Unmuzzled or rabid at large—(City): 2 & 3 Vict. c. xciv. s. 35, sub-s. 2, and s. 42. (Metropolis): 2 & 3 Vict. c. 47, s. 54, sub-s. 2, and s. 61. Stray Dogs,* 30 & 31 Vict. c. 134, s. 18.

Drainage (*Main, of Metropolis.*)*] 21 & 22 Vict. c. 104; 32 & 33 Vict. c. 102.

Drivers, Offences by.] City: 2 & 3 Vict. c. xciv. s. 35, sub-s. 4—9; 11 & 12 Vict. c. clxiii. s. 130, sub-s. 4—9. Metropolis: 2 & 3 Vict. c. 47, s. 54. See "*Highways,*" *ante*, p. 480, "*Turnpike Roads,*" p. 784. Also "*Cabs*" and "*Omnibuses.*"

Drovers.] See "*Cattle Driving.*"

Drunkenness (Vol. I. p. 398).] City: 2 & 3 Vict. c. xciv. s. 37. Metropolis: 2 & 3 Vict. c. 47, s. 58.

ment of Thames.] See "*Metropolitan Board of Works.*"
Forest.] 34 & 35 Vict. c. 93.
lawful). Metropolis: 2 & 3 Vict. c. 47, ss. 38, 39, 40; & 31 Vict. c. 134, s. 21; 31 & 32 Vict. c. 106.
See "*Cabs*" and "*Omnibuses.*"
ns or Works.] Discharging in street (City), 2 & 3 Vict. xciv. s. 35, sub-s. 15, and s. 36; (Metropolis), 2 & 3 Vict. 47; s. 54, sub-s. 15, and s. 55.
*ade of Metropolis.**] 28 & 29 Vict. c. 90.
*Chimneys.**] Penalty on occupier, 28 & 29 Vict. c. 90, 23.
(*Thames, &c.*).*] 9 Anne, c. 26; 30 Geo. 2, c. 21; 27 & 28 t. c. 113, ss. 65 to 67.
Vessels.] 22 & 23 Vict. c. 29; 24 & 25 Vict. c. 47, s. 64.
y.] Selling on (City), 2 & 3 Vict. c. xciv. s. 41, sub-s. 7; Metropolis), 2 & 3 Vict. c. 47, s. 60, sub-s. 7. Occupier not ansing (City), 2 & 3 Vict. c. xciv. s. 41, sub-s. 6; 11 & 12 Vict. clxiii. ss. 149, 150; (Metropolis), 2 & 3 Vict. c. 47, s. 60, b-s. 6; 57 Geo. 3, c. xxix. s. 63. Carrying placard on (City), & 3 Vict. c. xciv. s. 35, sub-s. 8; (Metropolis), 2 & 3 Vict. c 47, 54, sub-s. 8.
Cattle Market.] 32 & 33 Vict. c. 70, s. 28; 34 & 35 Vict. 39.
dly Societies (Vol. I. p. 1403).] 21 & 22 Vict. c. 101, s. 1.
ns Driving.] See "*Drivers,*" and *Offence* 163, *ante*, p. 1066.
iture Removing.] Constable to stop (City), 2 & 3 Vict. c. xciv. 47; (Metropolis), 2 & 3 Vict. c. 47, s. 67.
ing Houses (Vol. I. p. 458).] City: 2 & 3 Vict. c. xciv. s. 32. Metropolis: 2 & 3 Vict. c. 47, s. 48; 8 & 9 Vict. c. 109, ss. 6, 7.
*] (Supply of), 23 & 34 Vict. c. 125; (Measures), 24 & 25 Vict. c. 79.
*s.**] Detaining, value not exceeding £15,...2 & 3 Vict. c. 71, s. 40; conveying or having possession of, stolen or unlawfully obtained, Id. ss. 24, 26; delivering up to owner when stolen, &c. and in custody of constable, ss. 29, 30; or when pawned or held by dealers, &c., ss. 27, 28; depositing on footway, &c., 30 & 31 Vict. c. 134, s. 6; 31 Vict. c. 5, s. 1.
powder (Vol. I. p. 474).] 2 & 3 Vict. c. 47, s. 35 (Thames); 23 & 24 Vict. c. 139, s. 27; 25 & 26 Vict. c. 98. Mills and magazines not to be in London or Westminster, 23 & 24 Vict. c. 139, ss. 10, 18; and as to Thames, ss. 25, 27, 36.
ney Carriages.] See "*Cabs.*"
*y and Straw.**] (False packing), Vol. I. p. 480.
ways (Vol. I. p. 480, &c.).] Acts as to, not applicable to City, (5 & 6 Will. 4, c. 50, s. 115), nor to affect 57 Geo. 3, c. xxix. as

to streets of Metropolis (s. 112). See "*Nuisances in* "*Traffic Regulations.*"

Hoards.] City: 11 & 12 Vict. c. clxiii. ss. 161—166. M 18 & 19 Vict. c. 120, ss. 121 to 123.

Horn blowing.] City: 2 & 3 Vict. c. xciv. s. 35, sub-s. 14. M 2 & 3 Vict. c. 47, s. 54, sub-s. 14. As to omnibuses, Vict. c. 86, s. 33.

*Houseless Poor.**] 27 & 28 Vict. c. 116; 28 Vict. c. 34.

Hurt or Damage.] See "*Damage by Offenders.*"

*Improvements in Streets.**] 57 Geo. 3, c. xxix. s. 80; 25 & c. 102, s. 73; a variety of others, for which see 31 Vic

Industrial Schools (*ante*, p. 1432).] Middlesex: 17 & 18 clxix.

Jurors (*ante*, p. 1298).] City: 6 Geo. 4, c. 50, s. 50; 25 & c. 107, s. 14.

Lamps.] Extinguishing (City): 2 & 3 Vict. c. xciv. s. 35, su (Metropolis): 2 & 3 Vict. c. 47, s. 54, sub-s. 16; 18 & s. 120, ss. 206, 207; damaging (City): 11 & 12 Vict. ss. 117, 118; (Lamps on Cabs), 30 & 31 Vict. c. 134, s. Vict. c. 5, s. 2.

*Landlord and Tenant.**] Tenant damaging premises or fu 2 & 3 Vict. c. 71, s. 38. See further, "*Deserted Pre* "*Distresses;*" "*Furniture Removing.*"

Lands Clauses Act (*ante*, p. 1446).] [City: Compensation to above £50 settled in Lord Mayor's Court instead of by s if lands in Westminster, by high bailiff, 32 & 33 Vict. s. 3.]

Language.] See "*Abusive Language, &c.;*" "*Obscenities.*"

Lighterman of Thames.] See "*Watermen.*"

*Local Management.**] 18 & 19 Vict. c. 120; 19 & 20 Vict. c 21 & 22 Vict. c. 104; 25 & 26 Vict. c. 102; (Superannuat Officers of District Boards), 29 Vict. c. 31.

Locomotives (Vol. I. p. 546, and *ante*, p. 1453).] 24 & 25 Vict. s. 3; 28 & 29 Vict. c. 83, s. 8.

Lodging Houses (*Common*).] City: 14 & 15 Vict. c. xci. ss. 10 Metropolis: 14 & 15 Vict. c. 28, ss. 3, 4; 16 & 17 Vict. c.

Mad Dogs.] See "*Dogs.*"

Markets.] (Billingsgate), 9 & 10 Vict. c. cccxlvi.; 22 & 23 c. 29; (Smithfield), removal, 14 & 15 Vict. c. lxi.; New Market, 23 & 24 Vict. c. cxcvii.; (Metropolitan), 20 & 21 c. cxxxv.; (Farringdon), 5 Geo. 4, c. cli.; 11 Geo. 4 & 1 Wi c. lxiv.; (Newgate), 22 Car. 2, c. xi.; 24 Vict. c. lii.; (Far Cattle Market), 32 & 33 Vict. c. 70, s. 28; 34 & 35 Vict. c.

Mats.] See "*Carpet Beating.*"

*Messengers.**] 30 & 31 Vict. c. 134, ss. 19, 20.

politan Board of Works.] (General Management.) See "*Local Management.*" (Drainage.) See "*Drainage, Main, &c.*" (Thames Embankment), north side, 25 & 26 Vict. c. 93; south side, 36 & 37 Vict. c. 75. (New Street to Mansion House), 26 & 27 Vict. c. 45; 32 & 33 Vict. c. 102, s. 50. (Fire Brigade), 28 & 29 Vict. c. 90. (Loans), 32 & 33 Vict. c. 102; 34 & 35 Vict. c. 47; 33 & 34 Vict. c. 24. (Commons), 29 & 30 Vict. c. 122; 32 & 33 Vict. c. 107. (Metropolitan Buildings.) See "*Buildings, Metropolitan,*" and "*Ruinous Buildings.*" (Gas Measures.) See "*Gas.*"

politan Police Force.] See "*Constables.*"

politan Police Funds.] 31 & 32 Vict. c. 67.

ner Sessions.] 7 & 8 Vict. c. 61; 14 & 15 Vict. c. 55, ss. 14, 15, 16; 22 & 23 Vict. c. 4.

is (Vol. I. p. 616).] City: 13 & 14 Car. 2, c. 3, s. 27 (Trophy Act); 1 Geo. 4, c. 100; 15 & 16 Vict. c. 50, s. 35. Tower Hamlets: 37 Geo. 3, c. 25; 15 & 16 Vict. c. 50, s. 35.

*: and Dancing Licences.**] 25 Geo. 2, c. 36.

t in Street.] City: 2 & 3 Vict. c. xciv. s. 40. Metropolis: 2 & 3 Vict. c. 47, s. 57; 27 & 28 Vict. c. 55.

ation.] See "*Thames.*"

nces in General.] City: 23 & 24 Vict. c. 77, s. 2. See "*Sewers.*" Local Management Act, 18 & 19 Vict. c. 120, ss. 133, 134, as to appointment of inspectors and local authorities, and 23 & 24 Vict. c. 77, ss. 6, 11.

nces in Streets.] (Offences), City: 57 Geo. 3, c. xxix. ss. 64, 65, 67; 2 & 3 Vict. c. xciv. ss. 35, 41. Metropolis: 57 Geo. 3, c. xxix. ss. 64, 65, 67; 2 & 3 Vict. c. 47, ss. 54, 60.

nities.] Selling indecent prints, &c., or singing, &c., or using obscene language, City: 2 & 3 Vict. c. xciv. s. 35, sub-s. 12. Metropolis: 2 & 3 Vict. c. 47, s. 54, sub-s. 12.

ructions in Streets.] See "*Nuisances in Streets,*" "*Projections,*" and "*Traffic Regulations.*" The respective commissioners of police have power to prevent obstructions on certain occasions by making regulations and issuing directions to the constables, viz., City: 2 & 3 Vict. c. xciv. ss. 20, 22; 30 & 31 Vict. c. 134, s. 24; (Penalty), 2 & 3 Vict. c. xciv. s. 35, sub-s. 9. Metropolis: 2 & 3 Vict. c. 47, ss. 51, 52; (Penalty), Id. s. 54, sub-s. 9.

nces in Streets.] See "*Nuisances in Streets,*" "*Projections,*" and "*Traffic Regulations.*"

nibuses (*Metropolitan Stage Carriages*).] (Definition), 2 & 3 Will. 4, c. 120, s. 7, and 32 & 33 Vict. c. 115, ss. 4, 5; 6 & 7 Will. 4, c. 65, s. 7; 6 & 7 Vict. c. 86, s. 2. (Licences), 32 & 33 Vict. c. 115, ss. 6, 7, 9, and Home Secretary's Regulations of 10th March, 1871, Nos. 2—17; 16 & 17 Vict. c. 33, s. 1; 16 & 17 Vict. c. 127, s. 12. (Plates on), 2 & 3 Will. 4, c. 120, s. 7.

(Standings for), City: 6 & 7 Vict. c. 86, s. 32. Metropolis: Id. s. 29; 16 & 17 Vict. c. 33, ss. 12, 13. (Licences to Drivers, and Tickets and Conductors, &c.), 6 & 7 Vict. c. 86, ss. 8 to 26; 32 & 33 Vict. c. 115, s. 8; and Regulations, 36—38. (Fares), amount on omnibus and recovery as cabs, 6 & 7 Vict. c. 86, s. 7; exacting more, Id. s. 33. (Misbehaviour by drivers, conductors, or watermen), 16 & 17 Vict. c. 33, ss. 10, 17, 27; 6 & 7 Vict. c. 86, ss. 28, 33, and Home Secretary's Regulations of 10th March, 1871, Nos. 31, 32, 39; complaint to be made within seven days, sect. 31; proprietor liable, sect. 35. (Lost property), 16 & 17 Vict. c. 33, s. 11, and Home Secretary's Regulations of 10th March, 1871, Nos. 33 to 35. (Appointment of Watermen), 6 & 7 Vict. c. 86, s. 8. (Size and Inspection of), 5 & 6 Vict. c. 79, s. 13; 16 & 17 Vict. c. 33, s. 2. (Not setting down Passengers on left side of road, &c.), 30 & 31 Vict. c. 134, ss. 8, 14.

*Pavements.**] 57 Geo. 3, c. xxix. (Michael Angelo Taylor's Act); (disturbing), City: 11 & 12 Vict. c. clxiii. ss. 133, 138, 139. Metropolis: 18 & 19 Vict. c. 120, ss. 109—115; 25 & 26 Vict. c. 102, s. 82.

*Pawnbrokers.** (Vol. I. p. 650).] (Receiving pledges from persons under 16), City: 2 & 3 Vict. c. xciv. s. 34. Metropolis: 2 & 3 Vict. c. 47, s. 50. City and Metropolis (delivery up of goods unlawfully pawned to owners), 2 & 3 Vict. c. 71, ss. 27, 28.

*Petroleum.** Vol. I. p. 662, and *post*).] Local authority in City, 25 & 26 Vict. c. 66, s. 4.

Placards. (Carrying on footway), City: 2 & 3 Vict. c. xciv. s. 35, sub-s. 8. Metropolis: 2 & 3 Vict. c. 47, s. 54, sub-s. 8; 30 & 31 Vict. c. 134, s. 9.

Police.] See "*Constables.*"

Poor (*ante*, p. 1302, and *post*).] City: 43 Eliz. c. 2, s. 8; 12 & 13 Vict. c. 8, s. 4; 20 Vict. c. 19, s. 3. Metropolis: 20 Vict. c. 19, s. 3 (extra-parochial places). *Houseless poor, 27 & 28 Vict. c. 116; 28 Vict. c. 34; Metropolitan Poor Act, 1867, 30 Vict. c. 6, amended by 32 & 33 Vict. c. 63; 33 Vict. c. 18; 34 Vict. c. 15.

*Porters.**] 39 Geo. 3, c. lviii.

Possession (*Unlawful*).* Of "anything" stolen or unlawfully obtained, 2 & 3 Vict. c. 71, ss. 24, 26.

Processions.] Routes during. See "*Routes for Carriages.*"

Projections.] City: 2 & 3 Vict. c. xciv. s. 41, sub-s. 7; 11 & 12 Vict. c. clxiii. ss. 153—156, 186, 188. Metropolis: 2 & 3 Vict. c. 47, s. 60, sub-s. 7; 18 & 19 Vict. c. 130, ss. 119—121; 25 & 26 Vict. c. 102, ss. 74—76; 57 Geo. 3, c. xxix. s. 72.

*Property, Valuation of.**] See "*Valuation of Property.*"

Prostitutes.] Soliciting (City): 2 & 3 Vict. c. xciv. s. 35, sub-s. 11 (Metropolis): 2 & 3 Vict. c. 47, s. 54, sub-s. 11.

ms.] Harbouring constables (Metropolis): 10 Geo. 4, c. 44, 6.

House Closing Acts.] See "*Intoxicating Liquors.*"

Statues.] Metropolis: 17 & 18 Vict. c. 33; 24 & 25 Vict. 97, s. 39.

(*Police and other*).] City Police: 2 & 3 Vict. c. xciv. ss. 58—5, 91—96. Metropolitan Police: 10 Geo. 4, c. 44, ss. 23—26, 2; 2 & 3 Vict. c. 47, s. 2. City Sewers (recovery): 11 & 12 Vict. c. clxiii. s. 194. Local Management: 18 & 19 Vict. c. 120, 161. Main Drainage: 21 & 22 Vict. c. 104, s. 10.

er *of Metropolitan Police District.*] 30 & 31 Vict. c. 39; 34 & 5 Vict. c. 35.

sances.] City: 2 & 3 Vict. c. xciv. c. 53. Metropolis, 2 & 3 Vict. c. 47, ss. 70, 71, 72.

matory *Schools* (Vol. 1, pp. 209, 732, and *post*).] Middlesex: 7 & 18 Vict. c. clix.

shment *Houses** (Vol. I. p. 734, and *post*).] 23 Vict. c. 27, s. 27; 23 & 24 Vict. c. 113, s. 41.

s *Behaviour.*] Same as "*Drunkenness.*"

.] Stopping up, 25 & 26 Vict. c. 102, s. 21. See "*Turnpike Roads.*"

s *for Carriages.*] Regulating (City): 2 & 3 Vict. c. xciv. ss. 20, 22; penalty, s. 35, sub-s. 9. (Metropolis): 2 & 3 Vict. c. 47, ss. 51, 52; penalty, s. 54, sub-s. 9. See "*Obstructions*" for powers of Commissioners of Police, and "*Traffic Regulations.*"

ious *Buildings.**] 18 & 19 Vict. c. 122, ss. 69—81; 32 & 33 Vict. c. 82.

ngers.] City: 14 & 15 Vict. c. xci. ss. 4, 6, 8. Metropolis: 18 & 19 Vict. c. 120, ss. 125—128, 205. *Time of Scavengering, 30 & 31 Vict. c. 134, s. 5.

ions (*Quarter*).*] 4 & 5 Will. 4, c. 36, ss. 13, 17; 14 & 15 Vict. c. 55, s. 17. See "*Middlesex Sessions.*"

ers.] City Sewers Commission: 11 & 12 Vict. c. clxiii.; 14 & 15 Vict. c. xci.; 57 Geo. 3, c. xxix.; damage to property of commission, 14 & 15 Vict. c. xci. s. 37. Metropolis: see "*Local Management.*"

rp *and Cattle* (Vol. I. p. 746.] Saving rights of City, 11 & 12 Vict. c. 107, s. 31. See "*Cattle Diseases.*"

eblacks.*] 30 & 31 Vict. c. 134, ss. 19, 20.

ughter *Houses.*] City: 14 & 15 Vict. c. xci. ss. 18—27. Metropolis: 25 & 26 Vict. c. 102, ss. 93, 94.

les *on Footways.*] City: 2 & 3 Vict. c. xciv. s. 35, sub-s. 17. Metropolis: 2 & 3 Vict. c. 47, s. 54, sub-s. 17.

oke *Nuisances.**] 16 & 17 Vict. c. 128; 19 & 20 Vict. c. 107 [City Sewers, 14 & 15 Vict. c. xci. s. 48].

age *Carriages.*] See "*Omnibuses.*"

Statues (Public).] See "*Public Statues.*"

*Steam Boats.**] Selling liquors, 9 Geo. 4, c. 47; 4 & 5 Will. 5 & 6 Vict. c. 44, s. 5.

*Stolen Goods.**] Possession, 2 & 3 Vict. c. 71, ss. 24, 26 tion to owner, ss. 27—30.

Street Offences.] See "*Offences in Streets.*"

Tenants.] See "*Landlord and Tenant.*"

*Thames.**] Conservancy of: 20 & 21 Vict. c. cxlvii., therein cited; 27 & 28 Vict. c. 113, and 29 & 30 Vict. to upper navigation. Ballast: 20 & 21 Vict. c. cxlvii 102; 27 & 28 Vict. c. 113, s. 74. Constables on: 2 & c. 47, ss. 5, 33, 34. Fisheries of: 9 Ann. c. 26; 30 c. 21; 27 & 28 Vict. c. 113, ss. 65, 66, 67. Offences Vict. c. 47, ss. 26—32, 36, 37, 73; 18 & 19 Vict. c. 120 27 & 28 Vict. c. 113, s. 74. Works on: 18 & 19 Vict s. 135; 21 & 22 Vict. c. 104, ss. 1, 2, 27—29; 25 & c. 93, ss. 6, 14. Regulation of Bumboats: 27 & 28 Vic s. 64.

Thames Embankment.] See "*Metropolitan Board of Works*

Theatres (Vol. I. p. 766.] City: 2 & 3 Vict. c. xciv. s. 30. polis: 2 & 3 Vict. c. 47, s. 46. Licences, 6 & 7 Vict s. 3.

Threats.] See "*Abusive Language.*"

*Timber.**] Carrying at prohibited hours, 30 & 31 Vict. c. 13

Tithes (see *post*).] City: 37 Hen. 8, c. 12, amended by 2 Vict. c. cclxviii., and a Tithe Rate to be levied in parishes; (As to Fire Parishes), 44 Geo. 3, c. 89; (G 7 & 8 Will. 3, c. 6, s. 5.

Traffic Regulations.] City: 26 & 27 Vict. c. ccvi.; 30 & 3 c. 134; 31 Vict. c. 5. Westminster Bridge: 27 & 2 c. 88. See also "*Routes for Carriages.*"

Unwholesome Meat, &c. (Vol. I. p. 810).] City: 14 & 15 Vict. s. 52; Billingsgate Market Bye-Laws.

*Valuation of Property.**] 32 & 33 Vict. c. 67.

Vestries.] City exempted from act, 58 Geo. 3, c. 68, s. 10.

Vestry Officers' Superannuation.] Metropolis: 29 Vict. c. 31

*Water for Metropolis.**] 15 & 16 Vict. c. 84; 34 & 35 c. 113.

*Watermen.**] 22 & 23 Vict. c. cxxxiii. and bye-laws; amend 27 & 28 Vict. c. 113, ss. 53 to 63.

Weights and Measures (Vol. I. p. 838.] Metropolis: 3 & 4 c. 84, s. 12. Westminster: 29 Geo. 2, c. 25; 31 Geo. 2, 5 Geo. 4, c. 74, s. 24; 5 & 6 Will. 4, c. 63, s. 45; 24 & 25 c. 78.

Westminster Bridge (*Traffic Regulations*).] 27 & 28 Vict. c. 88

Wine and Coal Duties.] See "*Coal and Wine Duties.*"

LUNATICS. 84

propose to give the statute 16 & 17 Vict. c. 97, and other under the following heads:—

I. *As to Pauper Lunatics.*
II. *As to Wandering Lunatics.*
III. *As to Lunatics not under proper Care or cruelly treated.*
IV. *As to Appeals against Orders.*
V. *Removal, Discharge, Escape, &c. of Lunatics.*
VI. *As to Private Patients.*
VII. *Duties of Justices as Visitors of Asylums.*
VIII. *Criminal Lunatics and Insane Prisoners.*

I. *As to Pauper Lunatics.*

(1) *Their Apprehension and Removal to Asylum.*

formation to Justices and Examination of Lunatic.] By 16 & 17 c. 97, s. 67, every medical officer of a parish or union, 85 who have knowledge that any pauper resident within such parish any parish of his district, is or is deemed to be a lunatic, is in three days to give notice thereof in writing to a relieving er, or if there is no relieving officer, then to one of the over- of the parish,—and such relieving officer or overseer, who have knowledge of such notice *or otherwise*, that a pauper is natic, is within three days to give notice thereof to a justice of county or borough within which the parish is situate;—and upon the said justice is, by an order [Form, No. 2, p. 831, s "*Formulist*," 6th ed.], to require such relieving officer or seer to bring such pauper before him, or some other justice of same place, within three days from the time of such notice g given to the justice;—and the justice before whom the per is brought is to call to his assistance a physician, surgeon, pothecary, and examine such person;—and if the physician, shall sign a certificate 86 in the Form F., No. 3 [Oke's *ormulist*," 6th ed. No. 7, p. 832], and the justice is satisfied n view or personal examination of the pauper or other proof, t the pauper is a lunatic, and a proper person to be taken

16 & 17 Vict. c. 97. Sect. 67.

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84 The 11 & 12 Vict. c. 43, does not extend to the proceedings under acts in this title; see Vol. I. p. 129.

85 By 25 & 26 Vict. c. 111, s. 20, a lunatic cannot be detained in a rkhouse beyond 14 days unless the medical officer certifies it is proper d the accommodation there is sufficient.

86 16 & 17 Vict. c. 97, s. 75, requires the medical certificate to specify facts upon which the opinion of insanity has been formed. The ming a false certificate is an indictable misdemeanour (s. 122). By & 26 Vict. c. 111, s. 47, the term "physician," &c., means a person gistered under the Medical Act, 21 & 22 Vict. c. 90.

16 & 17 Vict. c. 97. Sect. 67.

charge of and detained under care and treatment, he i order according to a form (Schedule F., No. 1 [Oke's "*Fo* 6th ed. p. 832, No. 7]), to direct such pauper to be recei such asylum or hospital as hereinafter mentioned (se p. 1475);—and the relieving officer or overseer is immed convey the lunatic to the asylum, &c. 87 By a provis section (67), any justice upon notice being given to him as or upon his own knowledge without notice,—may exam pauper deemed to be a lunatic at his own abode or elsewh proceed in all respects as if such pauper were brought bef in pursuance of an order.

Examination by Clergyman.] By another proviso to the (67), in case any pauper deemed to be a lunatic cannot, on of his health or other cause, be conveniently taken before a he may be examined at his own abode or elsewhere by th ating clergyman of the parish in which he is resident, togeth a relieving officer, or if there be no relieving officer an over the parish;—and such officiating clergyman, together w relieving officer or overseer, may, on a certificate of a phy &c., make the like order for the removal of the lunatic asylum, &c., as the justices may direct.

If Lunatic ill.] If the physician, &c. certify that the lun not in a fit state to be removed, the removal is to be *susp* until the physician, &c., or another certify that he is fit to moved (s. 67).

When Removal compulsory on Justice and Clergyman, &c.—D Order.] Sect. 67 further provides, that where the certificate, Sched. F., is signed by the medical officer of the parish or un which the pauper named therein is resident, as well as by other person being a physician, surgeon or apothecary, ca the assistance of the justice or clergyman, &c., such joint ficate, or such two certificates (as the case may be), is to be rec by a justice or clergyman, &c. as conclusive evidence tha person named is a lunatic, and "he or they *shall* make an ord the form in the Sched. (F., No. 1) accordingly." By 25 & 26 c. 111, s. 25, the name and address of one or more of the rela of the lunatic are to be inserted in the order whenever it is sible; and by sect. 26, the same order and certificate are to ju detention as a pauper of a private patient, and *vice versâ*.

Sect. 72.

To what Asylum to be removed.] By sect. 72, the order for the ception of a lunatic into an asylum may authorize his admission

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87 The officer not obeying this order is liable to a penalty of not ceeding £10 (16 & 17 Vict. c. 97, s. 71); see Offence 13, Vol. I. p. title "*Lunatics.*"

into any lunatic asylum of the county or borough **88** in which parish or place from which the lunatic is sent is situate, but into any other asylum for the reception of *pauper* lunatics of county or borough,—and also into any asylum for any other city or borough,—or any hospital registered or house licensed the reception of lunatics;—but every lunatic shall under every order be sent to an asylum of the county or borough in which parish or place from which he is sent is situate, unless there be such asylum, or there be a deficiency of room, or unless there some special circumstances by reason whereof such lunatic can-conveniently be taken to such asylum, which deficiency of or special circumstances shall be stated in the order for the tion of such lunatic into any asylum other than such asylum aforesaid, or into any registered hospital or licensed house; and lunatic shall be sent into any registered hospital or house licensed the reception of lunatics, by virtue of such order, except there such asylum, or no such asylum in which he can be received, there be some special circumstances by reason whereof he can-be taken thereto, which shall be stated in like manner as said. **89**

16 & 17 Vict. c. 97. Sect. 72.

Amendment of Order and Certificate.] Sect. 87 provides that, if order or medical certificate be found incorrect or defective it be amended within fourteen days after the reception of the tic, with the sanction of the commissioners in lunacy.

(2) *Their Settlement—Expenses of Removal—Maintenance.*

Expenses of Examination.] By 16 & 17 Vict. c. 97, s. 69, any ce or justices causing any person to be examined by any sician, &c., may make an order upon the guardians of the ion or parish or overseers of the parish to which such person is rgeable **90** for the payment of such reasonable remuneration to

Sect. 69.

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88 For definition of "county," see 26 & 27 Vict. c. 110, and 28 & 29 t. c. 80. A "borough," by 16 & 17 Vict. c. 97, s. 132, is to mean every rough, town, and city corporate having a quarter sessions, recorder, clerk of the peace.

89 By 16 & 17 Vict. c. 97, s. 73, no pauper is to be received without order in the form required, nor without a medical certificate signed by e physician, who shall have personally examined the lunatic not more an seven days previously to his reception. By sect. 78, pauper lunatics e not to be received into any other than the county or borough asylum ithout indorsement of order by a visitor; and orders are not compulsory hospitals or licensed houses, except by contract.

90 By 16 & 17 Vict. c. 97, s. 95, every pauper lunatic is to be charge-le to the parish from which he is sent till otherwise adjudged, and see t. 118; but 24 & 25 Vict. c. 55, s. 6, in *Note* **92**, p. 1475, makes them largeable on the common fund. By sect. 100, justices may make an der, although the union or parish be not within their jurisdiction. By t. 103, guardians and overseers may pay the charges without the ders of justices.

16 & 17 Vict. c. 97.

Sect. 69.

any such physician, &c., for the examination, and of all other reasonable expenses in or about the examination, and the bringing him before such justice or justices, and the conveyance to the asylum, &c. [Form of Order, No. 9, p. 835, Oke's "*Formulist*," 6th ed.]

Sect. 96.

Maintenance.] By sect. 96, the justice by whom any pauper lunatic is sent to an asylum, &c.—or any two justices of the county or borough in which the asylum, &c. is situate,—or from any part of which any pauper lunatic is sent,—or any two justices being visitors of such asylum or licensed house, may make an order upon the guardians of the union or parish or the overseers of the parish (if not in a union or under a board of guardians) from which, or at the instance of any officer or officiating clergyman of which such lunatic is or has been sent for confinement for payment to the treasurer, officer or proprietor of the asylum, registered hospital or licensed house, of the reasonable charges of the lodging, maintenance, medicine, clothing and care of such lunatic in such asylum, &c.,—and any such order may be retrospective or prospective, or partly retrospective and partly prospective. 91 [Form of Order, No. 10, p. 836, Oke's "*Formulist*," 6th ed.]

Sect. 97.

Settlement ascertained in a Parish, and Order for Expenses.] By 16 & 17 Vict. c. 97, s. 97, any two justices for the county or borough in which any asylum, &c. in which any pauper lunatic is or has been confined is situate [it not being necessary to inquire by what means the pauper came into the asylum (see *Reg.* v. *Overseers of Faversham*, 31 L. J. (N. S.) M. C. 116; 6 Law T., N. S. 415)], or to which such asylum wholly or in part belongs,—or from any part of which any

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91 See 16 & 17 Vict. c. 97, s. 101, in *Note* 92, p. 1475. This section applies not only to paupers who were actually chargeable at the time they were sent to the asylum, but to all other lunatics sent there by an order of justices (see s. 118), and this seems to include wandering lunatics, and lunatics not under proper care or treatment, or who are cruelly treated by their friends. There is no appeal against this order; see *Note* 97, p. 1483. If the lunatic is a Greenwich or Chelsea pensioner, see 19 & 20 Vict. c. 15. As to pauper lunatics sent from boroughs, 30 & 31 Vict. c. 106, s. 23, enacts "where any pauper lunatic shall be sent to an asylum from any part of a borough wholly or partly comprised within a union, which borough shall not have contributed to the erection or maintenance of that asylum, the visitors of the asylum shall, where the union and the borough are not conterminous, make out two accounts in respect of such lunatic in the asylum, one of which shall be limited to the charge which would be made in the case of a pauper lunatic sent from the county, and shall be transmitted to the guardians of the said union for payment, and the other, which shall contain the extra sum by law chargeable in respect of a pauper lunatic received into the same asylum from any other county, shall be transmitted to the town council of such borough, and shall be paid by them as other charges to which the borough fund may be liable." By 31 & 32 Vict. c. 122, s. 14, the provisions contained in 29 & 30 Vict. c. 106, s. 23, is to apply to pauper lunatics sent to an asylum before the passing of that act as well as since.

lunatic is or has been sent for confinement, may at any time 16 & 17 Vict. c. 97. Sect. 97.
into the last legal settlement of such pauper lunatic, and if
tory evidence can be obtained as to such settlement in any
such justices shall by order adjudge such settlement accord-
and order the guardians of the union to which the parish in
such lunatic is adjudged to be settled belongs, or of such
in case such parish be in a union, or be under a board of
ans, and if not, then the overseers of such parish, to pay to the
ans of any union or parish, or the overseers of any parish, all
ses incurred by or on behalf of such union or parish in or about
amination of such lunatic, and the bringing him before a justice
tices, and his conveyance to the asylum, &c., and of all monies
y such last-mentioned guardians, &c. to the treasurer, &c. of
ylum, &c. for the lodging, &c. of such lunatic, and incurred
twelve calendar months previous to the date of such order,
such lunatic is still in confinement, also to pay to the trea-
&c. of the asylum, &c. the reasonable charges of the future
g, &c. of such lunatic;—and the guardians, &c. on whom any
order is made shall immediately pay to the guardians or over-
to whom the same are ordered to be paid the amount of the
ses and monies of such order directed to be paid to them, and
time to time pay to the said treasurer, &c. of the asylum, &c.
ture charges aforesaid. 92 [Forms of Complaint and Order,
11, 12, pp. 836, 837, Oke's "*Formulist*," 6th ed.; see *Reg.* v.
itants of Crediton, 27 L. J. (N. S.) M. C. 265.]

tlement not ascertained—Chargeability to County.] By 16 & 17 Sect. 98.

By 16 & 17 Vict. c. 97, s. 101, this order for payment of charges of tenance will extend to any asylum, &c., to which the lunatic may be red. The costs of pauper lunatics, who are irremovable under 9 & 10 c. 66, are to be borne by the parish wherein they were exempt from ral or by the common fund in unions (s. 102; see *Reg.* v. *Whitby*, 39 L. J. (N. S.) M. C. 97); and by 24 & 25 Vict. c. 55, s. 6, the of the examination of any lunatic pauper, present or future, his val and his maintenance, &c., who would, under 16 & 17 Vict. c. 97, iargeable to a parish in a union, are after 25th March, 1862, to be e by the common fund of the union comprising such parish (the over- of the parish in which the settlement of the pauper is adjudged to aving still a right to appeal against the order under 16 & 17 Vict. , s. 108, *post*, pp. 1483, 1484, and *Note* 97, *Reg.* v. *Guardians of Med- Union*, 37 L. J. (N. S.) M. C. 100);—and by sect. 7, the guardians ions may obtain orders on another union or parish, and appeal against rs. [*Vide* Form of Order, No. 18, p. 847, Oke's "*Formulist*," 6th ed.] y sect. 137, the party obtaining any order of adjudication of a settle- t on a parish is to send a copy thereof and statement of the grounds he parish affected. [*Vide* Form, No. 24, p. 852, Oke's "*Formulist*," ed.] The statement, if incorrect, is amenable under sect. 112. The s. 97, 107, do not apply to Gilbert's Unions, and the order should be le on the parish and not the union guardians (*Leatham* v. *Visitors of on-le-Sands*, 35 L. J. (N. S.) M. C. 62; 13 L. T., N. S. 218, over- ng *Reg.* v. *Inhabitants of Bramley*, 31 L. J. (N. S.) M. C. 11).

16 & 17 Vict. c. 97.

Sect. 98.

Vict. c. 97, s. 98, if the pauper lunatic be not settled in the p which he is sent to the asylum, &c., and it cannot be ascer what parish he is settled, two justices may, after ten days' the clerk of the peace for the county in which the lunatic wa adjudge the lunatic to be chargeable to the county, and order on the county treasurer for the expenses incurred Notice, Complaint and Order, Nos. 13, 14, 15, pp. 841, 84 "*Formulist*," 6th ed.];—and the county may thereafter in to the parish in which the lunatic is settled, and procure such to be adjudged to be settled in any parish (see *infra*). By

[25 & 26 Vict. c. 111, s. 45.]

Vict. c. 111, s. 45, the 18 & 19 Vict. c. 105, s. 14, which e the above provision to certain boroughs, is repealed, and thereof it is enacted,—"where any pauper lunatic is not se the parish by which, or at the instance of some officer or off clergyman of which, he is sent to an asylum, registered hos licensed house, and it cannot be ascertained in what paris pauper lunatic is settled, and such lunatic is found in a b which has a separate court of sessions of the peace, and is not under the act 5 & 6 Will. 4, c. 76, s. 117, to the payment of portion of the sums expended out of the county rate, or is fr any borough which, under the act 12 & 13 Vict. c. 82, is exe from liability to contribute to the payment of the expenses in for maintaining pauper lunatics chargeable to the county in such borough is situate, such lunatic shall be adjudged to be ch able to the borough in which he is found;—and it shall not be for any justice to adjudge such lunatic to be chargeable t county, nor to make any order upon the treasurer of any coun the payment of any expenses whatsoever incurred or to be inc in respect of such lunatic. All the provisions in the Lunacy chapter 97 [16 & 17 Vict.], as to the mode of determining pauper lunatic is chargeable to a county, and as to the orders made for payment of expenses and other monies in respect t lunatic, and for the repayment thereof to the treasurer of a c shall extend to the case of the borough to which a lunatic is chargeable under this section, as if the said provisions were enacted in this act, and such borough were therein mentione referred to instead a county."

Sect. 99.

Settlement afterwards ascertained in a Parish and County r bursed.] By 16 & 17 Vict. c. 97, s. 99, if after the lunatic has b adjudged chargeable to a county, such county procures him t adjudged to be settled in any parish, any two justices of the co or borough in which the asylum, &c. in which the lunatic is co is situate,—or from which sent,—or any two justices, being vis of such asylum, &c.—may make an order on the guardians or ov seers to which the parish belongs (as the case may be), for pay to the treasurer of the county of the expenses incurred and paid

nty for the lodging, &c. of the lunatic. [Forms of Complaint 16 & 17 Vict.
der adjudging Settlement and Expenses, Nos. 16, 17, pp. 844, c. 97.
ke's "*Formulist*," 6th ed.] Sect. 99.

atic's Property available for Maintenance.] By sect. 104, "if Sect. 104.
ar to any justice or justices by this act authorized to make
der for the payment of money for the maintenance of any
.93 that such lunatic has an estate, real or personal, appli-
to his maintenance, and more than sufficient to maintain his
, if any, or they shall, by an order under his or their hand
al, or hands and seals, direct the overseers of the parish,—or a
ng officer of the parish or union, or the treasurer or some other
of the county to which such lunatic is chargeable, or in which
roperty of the lunatic may be, or an officer of the asylum in
the lunatic may be,—to seize so much of any money, and to
nd sell so much of the goods and chattels, and to take and
e so much of the rents and profits of the lands and tenements
h lunatic, and other income of such lunatic, as may be neces-
o pay the charges of the examination, bringing before a justice
tices, removal, lodging, maintenance, clothing, medicine, and
f such lunatic, accounting for the same to such justice or jus-
such charges having been first proved to the satisfaction of
justice or justices, and the amount set forth in such order;—
any trustee or other person having the possession, custody
arge of any property of such lunatic, or if the governor and
any of the Bank of England, or any other body or person
g in their or his hands any stock, interest, dividend or annuity
ging or due to such lunatic, pay any money according to any
order, or pay any money without any such order, to the
dians of any union or parish, or to any overseer of any parish
a union or under a board of guardians, or to the treasurer of
county, or any other officer of a county authorized to receive
ame, to defray the charges paid or incurred by or on behalf of
parish, &c., for the examination, lodging, &c., the receipt of
person authorized to receive such money under such order, or of
guardians, &c., shall be a good discharge to such trustee,
94 [*Vide* Form of Order, No. 21, p. 850, Oke's "*Formulist*,"

This section appears to apply exclusively to lunatics who, at the they were sent to the asylum, were paupers, or were wandering at within the parish, as in those cases justices may make an order of tenance upon the union or parish, or upon the county, under sects. 97 or 98. As to the appropriation of lunatics' property by guardians others, see 11 & 12 Vict. c. 110, s. 10; 12 & 13 Vict. c. 103, s. 16, 16 & 17 Vict. c. 97, s. 102. See also 16 & 17 Vict. c. 70, s. 120, h enables the Lord Chancellor, in certain cases, where the property lunatic is of a small amount, to apply it directly for his main-nce; and these provisions have been extended by 25 & 26 Vict. c. 86, 2–15.

7 & 8 Vict. c. 101, s. 27, is a somewhat similar enactment to this.

[illegible] Vict. c. [illegible] this act.] By sect. 16, "the liability of any relation or [illegible] any lunatic shall not be taken away or affected [illegible]

Sect. 16. lunatic is sent to or confined in any asylum, &c. by any [illegible] proceedings concerning the maintenance of such lun[illegible]

Sect. 17. *Recovery of Expenses under Justices' Orders.*] Sect. 12[illegible] that "if any overseer, or any treasurer of any county, u[illegible] any order of justices for the payment of money under the [illegible] of this act, or of any act hereby repealed,[95] is made, sh[illegible] or neglect for the space of twenty days next after due notic[illegible] order to pay the money so ordered to be paid, the said [illegible] together with the expenses of recovering the same, [illegible] recovered by distress and sale of the goods of the ove[illegible] treasurer so refusing or neglecting, by warrant under th[illegible] and seals of any two justices hereby authorised to make t[illegible] for payment of the money aforesaid, or by an action at [illegible] by any other proceeding in any court of competent juri[illegible] against such overseer or treasurer;—and if the guardia[illegible] whom any such order is made refuse or neglect, for such [illegible] aforesaid, to pay the money so ordered to be paid, the same, [illegible] with the expenses of recovering the same, may be recovere[illegible] action at law or by any other proceeding in any such court;— case of any such action or proceeding, no objection shall b[illegible] to any defect or want of form in any order of admission o[illegible] treasure, or in any certificate or adjudication under this act, [illegible] order or adjudication shall not have been appealed agains[illegible] appealed against, shall have been confirmed."

Maintenance of Lunatic Married Women.] See 13 & 1[illegible] c. 101, s. 5, *post*, tit. "*Poor*," under "*Maintenance of Relati*[illegible]

31 & 32 Vict. c. [illegible] *Guardians may pay the Costs of Idiots sent to Asylums for* [illegible] By "The Poor Law Amendment Act, 1868," 31 & 32 Vict.

Sect. 13. s. 13, "the guardians of any union or parish may, with the c[illegible] of the poor law board, send an idiotic pauper to an asylum o[illegible] blishment for the reception and relief of idiots maintained [illegible] charge of the county rate or by public subscription,—and the [illegible] with the like consent send any idiotic, imbecile or insane p[illegible] who may lawfully be detained in a workhouse to the workho[illegible] any other union or parish, with the consent of the guardians o[illegible] last-mentioned union or parish, and pay the cost of the mainte[illegible] clothing and lodging of such pauper in the asylum, establishm[illegible] workhouse, as well as the cost of his conveyance thereto [illegible] removal therefrom, and the expenses of his burial, when neces[illegible]

Certain Lunatics may be received in Workhouses from [illegible]

Sect 43. *Asylums.*] By the same act, sect. 43, "the guardians of any [illegible]

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95 The acts repealed by this act are 8 & 9 Vict. c. 126, 9 & 10 [illegible] c. 84, and 10 & 11 Vict. c. 43.

ish may, with the consent of the poor law board and the com- 31 & 32 Vict.
ners in lunacy, and subject to such regulations as they shall c. 93.
tively prescribe, receive into the workhouse any chronic Sect. 43.
s not being dangerous who may have been removed to a
a asylum, and selected by the superintendent of the asylum
ertified by him to be fit and proper so to be removed, upon
rms as may be agreed upon between the said guardians and
mittee of visitors of any such asylum, and thereupon every
matic, so long as he shall remain in such workhouse, shall
me a patient on the books of the asylum for and in respect of
provisions in the lunacy acts, so far as they relate to lunatics
d to asylums."

II. *As to Wandering Lunatics.*

(1) *Their Apprehension and Removal to Asylum.*

rmation to Justices and Examination of Lunatic.] By 16 & 17 16 & 17 Vict.
. 97, s. 68 (*inter alia*), it is provided, that every constable of c. 97.
arish or place,—and every relieving officer and overseer of any Sect. 68.
,—who shall have knowledge that any person wandering at within such parish or place (*whether or not such person be a r*) is deemed to be a lunatic, shall immediately apprehend and r cause such person to be apprehended and taken before a ;—and also any justice, upon its being made to appear to him o information upon oath [Form, No. 1, Oke's "*Formulist*," 6th p. 831] of any person whomsoever, that any person wandering ge within the limits of his jurisdiction is deemed to be a lunatic, a order [Form, No. 3, Oke's "*Formulist*," 6th edit. p. 831] may ire any constable of the parish or place where such person may und, to apprehend him and bring him before such justice, or other justice having jurisdiction where such person may be d,—* * * and the justice before whom any such person is brought l call to his assistance a physician, surgeon or apothecary,—and l examine such person, and make such inquiry relative to such tter as he or they shall deem necessary;—and if upon examination uch person or other proof, such justice be satisfied that such per- is a lunatic and was wandering at large, and is a proper person be taken charge of and detained under care and treatment, * * * l if such physician, &c. sign a certificate according to the form Schedule F., No. 3 [Oke's "*Formulist*," 6th edit. p. 832, No. 7], said justice may by an order [Form, No. 7, Oke's "*Formulist*," edit. p. 832] direct such person to be received into such asylum, pital registered or house licensed;—and the constable, relieving ser or overseer who may have brought the lunatic before the stice,—or any constable whom the justice may require so to do,— forthwith to convey the lunatic to the asylum, &c. By 25 & 26 [25 & 26 Vict.
ict. c. 111, s. 23, no order for the reception of a private patient c. 111, s. 23.]

16 & 17 Vict. c. 97.

is to authorize his reception after the expiration of one calendar month from its date, nor unless the person signing it has himself seen the patient within such period, nor unless the date of seeing the patient is added to the order. By sect. 24, persons interested in licensed houses and medical attendants are prohibited from signing orders for admission of private patients. By sect. 25, the name and address of one or more of the relations of the lunatic are to be inserted in the order, wherever it is possible; and by sect. 26, the same orders and certificates are to justify detention as a private or a pauper patient, and *vice versâ*.

Sect. 68.

By a proviso to this section (16 & 17 Vict. c. 97, s. 68), any justice, upon such information on oath as aforesaid, or upon his own knowledge, and alone, may examine the person deemed to be a lunatic, at his own abode or elsewhere, and may proceed in all respects as if such person were brought before him.

Suspension of Order.] The justice may suspend the execution of the order of removal to asylum, &c. for not exceeding 14 days, and in the meantime give directions or make arrangements for the proper care and control of the lunatic;—and the justice may likewise suspend its execution until a physician, &c. certify the lunatic is fit to be removed (s. 68).

Relative may take Lunatic under Care.] The above enactment is not to extend to restrain or prevent any relation or friend from retaining or taking such lunatic under his own care, if such relation or friend satisfy the justice or justices, or the visitor of the asylum in which such lunatic is or is intended to be placed, that such lunatic will be properly taken care of (s. 68).

To what Asylum to be removed.] Same as sect. 72, *ante*, p. 1472.

Amendment of Order and Certificate.] Sect. 87, *ante*, p. 1473.

(2) *Expenses of Maintenance, &c.*

Expenses of Examination and Maintenance.] See sects. 69, 96, p. 1473.

Maintenance out of Lunatic's Property.] Sect. 104, *ante*, p. 1476, is applicable here, and not sect. 94, p. 1482, which is applicable only to lunatics not under proper care and control, or who are cruelly treated by their relatives.

Settlement.] Sect. 97, *ante*, p. 1476, and *Note* 89.

Recovery of Expenses.] See sect. 121, *ante*, p. 1478.

III. *As to Lunatics not under proper Care or cruelly treated.*

(1) *Their Apprehension and Removal to Asylum.*

Sect. 68.

Information to Justice and Examination of Lunatic.] By 16 & 17 Vict. c. 97, s. 68, it is provided (*inter alia*), that every constable of any parish or place,—and every relieving officer and overseer of any

—who shall have knowledge that any person in such parish *not a pauper*, and not wandering at large within such parish :, is deemed to be a lunatic, and is not under proper care and ,—or is cruelly treated or neglected by any relative or other having the care or charge of him,—shall, within three days ›taining such knowledge, give information thereof upon oath No. 5, Oke's "*Formulist*," 6th edit. p. 832] to a justice,—and it be made to appear to any justice upon such information,— ı the information upon oath of any person whomsoever,—that ›son within the limits of his jurisdiction *not a pauper*, and not ring at large, is deemed to be a lunatic, and is not under care and control, or is cruelly treated or neglected by any e or other person having the care or charge of him,—such shall either himself visit and examine such person, and make y into the matters so appearing upon such information—or by er [Form, No. 5, Oke's "*Formulist*," 6th edit. p. 832] autho- ›me physician, &c. to visit and examine such person, and such inquiry, and to report in writing to such justice his n thereupon;—and in case upon such personal visit, exami- ı and inquiry such justice, or upon the report of such ›ian, it appear to such justice that such person is a lunatic, he justices by an order [Form, No. 6, Oke's "*Formulist*," lit. p. 832] may require any constable of the parish or place, y relieving officer or overseer of the parish where such person ›ged to be, to bring him before any *two* justices of the same y or borough;—and the justices before whom any such person ught shall call to their assistance a physician, &c., and shall ine such person, and make such inquiry relative to such person ey shall deem necessary;—and if upon examination of such n or other proof, . . . such two justices be satisfied that such n so brought before them is a lunatic, and is not under proper and control or is cruelly treated or neglected by any person ng the care or charge of him, and that he is a proper person : taken charge of and detained under care and treatment,— if such physician, &c. sign a certificate according to the form :hedule F., No. 3 [Oke's "*Formulist*," 6th edit. p. 832, No. 7], said justices by an order [Form, No. 7, Oke's "*Formulist*," edit. p. 832], may direct such person to be received into such um, hospital registered or house licensed [as mentioned, *ante*, 472]:—and the constable, relieving officer or overseer who may e brought such person before the justices,—or any constable m such justices may require so to do,—is forthwith to convey lunatic to the asylum, &c. The provisions of sect. 68, as to examination of the lunatic at his own abode, for the suspension the order, and the relative taking charge of the lunatic, set out , pp. 1479, 1483, as to wandaring lunatics, are equally applicable

16 & 17 Vict. c. 97. Sect. 68.

16 & 17 Vict. c. 97.

here, except that in this case the matters there required to by one justice must be done by two justices.

Sect. 68.

To what Asylum to be removed.] Same as sect. 72, *ante*,

Amendment of Order and Certificate.] Same as sect. 5 p. 1473.

(2) *Costs of Maintenance, &c. out of Lunatic's Propert*

Justices may authorize Sale of Estate, &c.] 16 & 17 Vict

Sect. 104.

s. 104, *ante*, p. 1477, is not applicable to these, but sect. 94, a

Liability of Relations.] See sect. 105, *ante*, p. 1478; and "*Poor*," *post*, as to "*Maintenance of Relations*."

Sect. 94.

Application to Relative or Friend for Payment.] By s "where any lunatic shall be sent to any asylum, registered or licensed house, under any order made by virtue of the a herein before given to *two* justices, 96 if it appear to such that such lunatic hath an estate applicable to his maintena more than sufficient to maintain his family (if any), it shall ful for such justices to make an application in writing und hands and seals [Form, No. 19, Oke's "*Formulist*," 6th 848] to the nearest known relative or friend of such luna the payment of the charges of the examination, removal, l maintenance, clothing, medicine and care of such lunatic;— case such charges be not paid within month after such appl it shall be lawful for the same or any other justices, by a under their hands and seals [Form, No. 20, Oke's "*For* 6th ed. p. 849], to direct a relieving officer or overseer parish from which such lunatic shall be sent, or where any p of such lunatic shall be, to seize so much of the money, seize and sell so much of the goods and chattels, and ta receive so much of the rents and profits of the lands and ten of such lunatic, and of any other income of such lunatic, a be necessary to pay the charges of the examination, re lodging, maintenance, clothing, medicine, and care of such lu accounting for the same to the same or any other justices charges having been first proved to the satisfaction of th justices, and the amount set forth in such order;—and i trustee or other person having the possession, custody or cha any property of such lunatic, or if the governor and comp the Bank of England, or any other body or person having in or his hands any stock, interest, dividend, or annuity belong due to such lunatic, pay the whole or any part thereof to any seer or relieving officer to defray the charges set forth in order, the receipt of such overseer or relieving officer shall

96 This section is not applicable to the case of a lunatic wh pauper or wandering at large.

good discharge to such trustee, governor and company, or other body or persons as aforesaid." 16 & 17 Vict. c. 97. Sect. 94.

Expenses of Examination to be paid by Guardians, &c., until repaid.] By a proviso to this section (s. 94), "notwithstanding it may appear to the said justices that such lunatic hath such estate as aforesaid, it shall be lawful for such justices in the meantime and until such charges as aforesaid shall be paid in pursuance of such application or order as aforesaid, to make an order on the guardians of the union or parish, or the overseers of the parish, from which such lunatic shall be sent for confinement, for payment of the charges of removal, lodging, maintenance, clothing, medicine, and care of such lunatic;—and such guardians or overseers shall be reimbursed such charges, under any order to be made as aforesaid for payment of such charges, out of the property of the lunatic, unless the same be sooner repaid by some relative or friend of such lunatic in pursuance of such application as aforesaid."

IV. *As to Appeals against Orders.*

For Refusal of an Order.] Any person aggrieved by any refusal of an order of any justice or justices as aforesaid may appeal to the next general or quarter sessions, on giving fourteen days' notice (16 & 17 Vict. c. 97, s. 106). Sect. 106.

Against Order adjudicating Settlement.] See sect. 107, and other provisions in *Note* 92, *ante*, p. 1475, and cases thereon. The guardians of any union or parish, or the overseers of any parish, aggrieved by any order adjudicating the settlement of any lunatic, may appeal against the same to the next general quarter sessions of the peace for the county in behalf of which such order has been obtained,—or in which the parish or union obtaining such order is situate,—or in case such parish or union extend into several jurisdictions, then to the sessions for the county or borough in which the asylum, &c., in which such lunatic is or has been confined is situate (s. 108). 97 [Forms of Notice, &c., Oke's "*Formulist*," 6th ed. p. 852.] Sect. 108.

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97 This clause does not give the right to appeal by a county upon whom an order is made under sect. 98, *ante*, p. 1475. In *Reg.* v. *Justices of West Riding of Yorkshire* (*Halifax* v. *Leeds*), 26 L. J. (N. S.) M. C. 41, it was held that the guardians of the union as well as the overseers have a right of appeal under this section, and this is not affected by 24 & 25 Vict. c. 55, ss. 6, 7, in *Note* 92, *ante*, p. 1475 (*Reg.* v. *Guardians of Medway Union*, 37 L. J. (N. S.) M. C. 100); but it does not give to guardians or overseers from which lunatic sent a right of appeal against order for maintenance under sect. 96, *ante*, p. 1475 (*Reg.* v. *Recorder of Northampton*, 34 L. J. (N. S.) N. C. 198; 13 Law T., N. S. 199). As to the sessions for hearing appeal, *Reg.* v. *Justices of Warwickshire* (28 L. J. (N. S.) M. C. 249; 33 L. T. 201), decided that in the case of a lunatic confined in an asylum in a borough having a separate court of quarter sessions, sent there by a parish situate wholly within the borough by justices thereof,

16 & 17 Vict. c. 97.

Various other provisions are contained in the 16 & 17 Vict. c. 97, viz.—copy of depositions to be furnished by the justices' clerk on application (s. 109);—no appeal, if notice not given within a certain time after notice of order (s. 110);—grounds of appeal to be stated (s. 111);—as to the sufficiency of statement of grounds of adjudication or appeal; power to amend statement (s. 112);—power for court to amend order on account of omission or mistake (s. 113);—party making frivolous or vexatious statements of grounds liable to pay costs (s. 114);—party losing appeal to pay such costs as court may direct (s. 115);—decisions of courts upon hearing appeals to be final (s. 116);—abandonment of orders before or after notice of appeal (s. 117; Form, Oke's "*Formulist*," 6th ed. p. 853, No. 26);—guardians and officers interested in appeals to have access to the lunatic to examine him (s. 119).

Appeal against other Orders.] See sect. 128, *Note* 247, Vol. I. pp. 551, 552.

V. *Removal, Discharge, Escape, &c. of Lunatics.*

Sect. 77.

Removal.] By 16 & 17 Vict. c. 97, s. 77, any two of the visitors of any asylum, being justices, may direct the removal of a pauper lunatic *to* the asylum of a county or borough, from any other asylum, hospital or licensed house,—or may order his removal *from* the county or borough asylum to any other asylum, hospital or licensed house. 98 [Forms of Order, Nos. 22, 23, Oke's "*Formulist*," 6th ed. p. 851.] The commissioners in lunacy have the like power (s. 82). The order already made for the charges of the maintenance in the first asylum is equally applicable in respect of the like charges in the latter asylum (s. 101). The expenses of removal will be borne by the parish, county, &c. to which the lunatic is chargeable (s. 120).

Sect. 79.

Discharge.] By sect. 79, any three visitors of an asylum may order the discharge of any person detained therein, whether he be recovered or not;—and any two visitors, with the advice in writing of the medical officer, may discharge any person detained therein, or permit him to be absent from the asylum upon trial. By

Sect. 80.

sect. 80, when the visitors order a pauper lunatic to be removed,

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the appeal was to the county and not to the borough sessions; and it is the same where the order is obtained by a union consisting of parishes partly in a borough which was wholly in one county but had separate quarter sessions, and partly of parishes in the county at large (*Reg.* v. *Justices of Kent*, 35 L. J. (N. S.) M. C. 201; 14 L. T., N. S. 331).

98 This section is restricted by sect. 78, which provides that pauper lunatics are not to be received into any other than the county or borough asylum without indorsement of the order by a visitor. But 18 & 19 Vict. c. 105, s. 8, extends the sect. 77 of 16 & 17 Vict c. 97 (subject to s. 78), so as to authorize the removal of a lunatic from and to a registered hospital or licensed house, as well as a county or borough asylum.

ay, if they see occasion, send a notice of their intention to 16 & 17 Vict.
rseers of the parish of his settlement,—or, if the settlement c. 97.
adjudged, to the overseers of the parish from which he was
r to the relieving officer of the union if he be chargeable to
ion fund;—and upon receipt of such notice, such overseers
ving officer shall remove the pauper to their parish, or to
rkhouse of the union, at the expense of such parish or union,
a penalty of not exceeding £10,—the expense of such dis-
and removal being borne by the parish, &c. to which the
is chargeable (s. 120). By sect. 81, the committee of Sect. 120.
s of an asylum may discharge a pauper lunatic confined Sect. 81.
n, upon the application of a relative or friend, such relative
nd giving an undertaking, to the satisfaction of such visitors,
such lunatic shall no longer be chargeable to any union,
, or county, and shall be properly taken care of, and be
nted from doing injury to himself or others.

pe.] By sect. 88, the person duly received into any asylum, Sect. 88.
may be detained therein until he be removed or discharged as
rized by the act, and in case of escape may be retaken at any
within fourteen days after his escape—99 by the superin-
nt or proprietor of such asylum, &c.,—or any officer or servant
ging thereto,—or any other person authorized in writing in
behalf by such superintendent or proprietor,—and conveyed to
received and detained in such asylum, &c.

VI. *As to Private Patients.*

private patient is to mean every patient who is not a pauper
9 Vict. c. 100, s. 114).

ception in Hospital, &c.] One justice or clergyman and reliev-
officer may, on the certificate of two physicians, &c., order the
oval of a person (not a pauper) into a licensed house or hospital
& 17 Vict. c. 96, s. 4; Form of Order, No. 8, p. 834, Oke's
manual," 6th ed.); but if the examination of two physicians,
cannot be obtained, he may be admitted on one, the other
ificate being obtained within three days after reception (s. 5;
see 25 & 26 Vict. c. 111, ss. 23—25). A relative may also
e a request for the reception of a lunatic into a public asylum,
the certificate of two physicians (see 16 & 17 Vict. c. 97, ss. 74, 76).

Discharge or Removal.] The person who signed the order may
r the removal or discharge of the patient from an asylum
& 17 Vict. c. 97, ss. 83, 84). A similar provision is contained
sect. 86, as to the removal of a licensed house or registered
pital (and see 16 & 17 Vict. c. 96, s. 20).

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99 After this time the lunatic can only be taken back to the asylum,
by an order of a justice, as in the first instance.

16 & 17 Vict. c. 97.

VII. *Duties of Justices as Visitors of Asylums.*

The powers of justices of the peace as visitors of asylum concisely stated to be—

With respect to public lunatic asylums, they are elected by the justices at the Epiphany sessions (16 & 17 Vict. c. 9 23, 24).

With respect to private asylums, &c., three or more j be appointed at Michaelmas sessions in every year, to act a of every or any house or houses licensed for the rec lunatics, with the exception of those within the jurisdicti commissioners in lunacy (8 & 9 Vict. c. 100, s. 14), wh take an oath (Id. s. 17). As to the appointment of their c sections 21, 22.

Two at least of visitors to visit every licensed house wit jurisdiction four times a year at the least in the daytime (s in the night (s. 71; and see 25 & 26 Vict. c. 111, s. 29).

They may regulate the dietary of pauper lunatics in such &c. (Id. s. 82). They may allow the friends of patients, or men employed by them, to visit them (Id. s. 85); may make visits to a patient in a house licensed by justices, and, if the fit, order him to be discharged (Id. ss. 77, 79, 80). They m the removal of pauper lunatics to or from an asylum, &c. (s of 16 & 17 Vict. c. 97, *ante*, p. 1484), and likewise their di (ss. 79 and 81, *ante*, p. 1485).

They may make orders for the costs of maintenance, & pauper lunatic upon guardians or overseers (Id. s. 96, *ante*, p. also for reimbursing to the county of such costs where the ment parish is subsequently ascertained (s. 99, *ante*, p. 1476 the order to sell lunatic's effects (s. 104, *ante*, p. 1477); recovery of all costs and expenses (s. 121, *ante*, p. 1478).

VIII. *Criminal Lunatics and Insane Prisoners.*[100]

1 & 2 Vict. c. 14.

Criminal Lunatics.] By 1 & 2 Vict. c. 14, s. 2, if any shall be discovered and apprehended under circumstances

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100 By 16 & 17 Vict. c. 97, s. 133, none of its provisions are to the acts of 1 & 2 Vict. c. 14, 3 & 4 Vict. c. 54, and 39 & 40 Geo. as to criminal lunatics. The provisions of 16 & 17 Vict. c. 97, s. *Note* 93, *ante*, p. 1475, as to irremovable pauper lunatics, are not by this enactment, and an order on the parish in which they were is good notwithstanding the 9 & 10 Vict. c. 66 (*Reg.* v. *Bishop* 23 J. P. 100). The 23 & 24 Vict. c. 75, makes provision for the and care of criminal lunatics in some asylum to be appointed Majesty for the purpose, sect. 10 of that act providing for the of conveying the lunatic to the latter asylum and his maintenance 30 Vict. c. 12, s. 6, provides for his removal from the criminal asylum to a county asylum on the expiration of his sentence, by of the secretary of state. That provision applies to criminal

a derangement of mind and a purpose of committing some for which, if committed, he would be liable to be indicted, stices of the county, &c. may call to their assistance a medical and if person deemed insane, or a dangerous idiot, they may him to be conveyed to an asylum, hospital or licensed house, rated if not insane (s. 3). Justices to inquire into his settle- and make order on parish for maintenance; if settlement t be ascertained, then upon the treasurer of the county (s. 2). ttlement can be inquired into at any time, and is not limited time of making the order by which the lunatic was conveyed asylum, even if irremovable, 100 but no order can be made e county for the expenses until the justices have inquired r failed to ascertain, the place of settlement (*Reg.* v. *Clerk of of W. R. Yorkshire* 20 L. J. (N. S.) M. C. 18). [Forms of s. Nos. 27—29, pp. 854, 855, Oke's "*Formulist*," 6th ed.] al lies to the sessions in like manner as against any order of ral (see s. 2). The time for appealing is regulated by 11 & 12 c. 31, s. 9; see tit. "*Poor*," *post*.

1 & 2 Vict. c. 14.

ane Prisoners.] By 27 & 28 Vict. c. 29, s. 2 (s. 1 having re- d 3 & 4 Vict, c. 54, s. 1), "If any person while imprisoned in prison or other place of confinement—under any sentence of portation, penal servitude, or imprisonment, or under a charge y offence, or for not finding bail for good behaviour or to keep peace, or to answer a criminal charge, or in consequence of any mary conviction or order by any justice or justices of the peace, nder any other than civil process,—shall appear to be insane, all be lawful, if such person is confined in a prison to which ing justices are appointed, for two or more of the visiting ices of such prison,—or if such person is in any other place of inement, for two or more justices of the peace of the county, borough or place in which such place of confinement is ate,—and such visiting or other justices are hereby required to to their assistance two physicians or surgeons, or one physician one surgeon, duly registered as such respectively under the risions of an act 21 & 22 Vict. c. 90, and to be selected by them that purpose, and to inquire with their aid as to the insanity of h person; and if it shall be duly certified by such justices or two of them, and such physicians or surgeons, or such physi- n and surgeon, that such person is insane, one of her Majesty's ncipal secretaries of state may, upon receipt of such certificate, he shall think fit, direct by warrant under his hand that such son shall be removed to such lunatic asylum or other proper eptacle for insane persons as the said secretary of state may

3 & 4 Vict. c. 54; 27 & 28 Vict. c. 29.

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ose terms of punishment expired before the passing of the 30 Vict, 12 (see 32 & 33 Vict. c. 78, s. 2).

3 & 4 Vict. c. 54; 27 & 28 Vict. c. 29. 3 & 4 Vict. c. 54, s. 2.

judge proper and appoint;—and if at any time it shall be appear to one of her Majesty's principal secretaries of s there is good reason to believe that any prisoner in con under sentence of death is then insane, either by means tificate in writing to that effect in the form given in Sch transmitted to him by two or more of the visiting justic prison in which such prisoner under sentence of death is or by any other means whatsoever, such secretary of st appoint two or more physicians or surgeons, duly regi aforesaid, to inquire as to the insanity of such prisoner; a such inquiry the prisoner shall be found to be then insane, shall be certified in writing by such persons to the said sec state, and on the receipt of such certificate the said sec state shall direct by warrant under his hand that such shall be removed to such lunatic asylum or other proper re for insane prisoners as aforesaid;—and every person so under this act, or already removed and in custody under any act relating to insane prisoners not under civil process, shall in confinement in such asylum or other proper receptacle a said, or in any other lunatic asylum or other proper recep which such person may be removed by any like warrant wh secretary of state is hereby empowered to issue, if he sha fit, until it shall be duly certified to the said secretary of s two physicians or surgeons, or one physician and one surge registered as aforesaid, that such person is sane, and up receipt of such last-mentioned certificate the said secre state is hereby authorized to issue a warrant under hi directing, if the period of imprisonment or custody of such shall have expired, that he or she shall be discharged, or i person shall still remain subject to be continued in custod he or she shall be removed to any prison or other place of c ment in which he or she may be lawfully confined, to unde sentence of death or other sentence, or, if not under sentence dealt with according to law as if no such warrant for his r to a lunatic asylum had been issued;—provided, that noth this act contained shall be construed to repeal the thirty- section of the act 16 & 17 Vict. c. 96." [This gives the se of state power to remove or discharge any insane person physicians or surgeons certify he is harmless.] [Form. p. 855, Oke's "*Formulist*," 6th ed.] By 3 & 4 Vict. c. 5 justices are to inquire into the settlement of such prison make an order on the parish for his maintenance, even movable, but in unions the maintenance is to be borne common fund (27 & 28 Vict. c. 29, s. 5; see the case of *G of Bradford Union* v. *Clerk of Peace for Wilts*, 37 L. J. M. C. 129). When settlement not found, order to be m

ner of county, and in case the person is possessed of property il be applied by justices' order towards the expenses (3 & 4 c. 54, s. 2). [Forms, Nos. 31, 32, pp. 856, 857, Oke's "*For-* t" 6th ed.] See *In re Simpson*, 20 L. J. (N. S.) M. C. 231. is appeal against orders of justices under the 3 & 4 Vict. ss. 4, 5; but not by overseers (27 & 28 Vict. c. 29, s. 6). By Vict. c. 54, s. 3, where persons charged with misdemeanors quitted on the ground of insanity, the like powers as in l, for two justices to inquire into settlement and make orders intenance are given.

3 & 4 Vict. c. 54; 27 & 28 Vict. c. 29.

MANUFACTURES.

ges of Silk Weavers.] By 8 & 9 Vict. c. 128, s. 7, the wages ums due for work from any silk manufacturer may be reco- before two or more justices; and the manufacturer is also fined for neglecting payment, unless he gives notice of ntention to have such work arbitrated. Forms, p. 857, Oke's *nulist*," 6th ed.] *Vide* tit. "*Master and Servant*," p. 1490, as to ation, 5 Geo. 4, c. 96, ss. 9, 24. A weaver does not forfeit ages (under a rule of a mill which provided that unless notice n of absence from work the wages were to be forfeited) by uing absent longer than the period he had mentioned (*Taylor* v. 30 L. J. (N. S.) M. C. 201; 4 Law T., N. S. 414); nor is icket of work void by a condition annexed thereto, by which rice is made to vary according to the quickness with which ork is done and returned to the master (*Seddon* v. *Cocker*, 25 196).

8 & 9 Vict. c. 128.

ges of Workmen in Hosiery Trades.] By 6 & 7 Vict. c. 40, wages and sums due for work may be recovered before two or justices.[101]

6 & 7 Vict. c. 40.

e and Thread-Lace Manufacturers.] By 19 Geo. 3, c. 49, s. 1, ages are recoverable before a justice, against whose order an l is given by sect. 3.

19 Geo. 3, c. 49.

bitration.] See tit. "*Master and Servant*," *infra*.

MARKETS AND FAIRS.[102]

The Markets and Fairs Clauses Act, 1847," 10 & 11 Vict. c. 14, xtent of which is shown in *Note* 287, Vol. I. p. 569, provides arious matters being heard and determined befores justices, :—

10 & 11 Vict. c. 14.

e mode of determining questions of compensation with regard

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[1] "The Master and Servant Act, 1867," 30 & 31 Vict. c. 141, does ffect the mode of recovery of wages under this enactment, as it does pply at all to default in paying wages. See *Note* 118.

[2] The local board, under "The Local Government Act, 1858," may ute the powers of this act (21 & 22 Vict. c. 98, s. 50).

10 & 11 Vict. c. 14.

to lands purchased or taken is to be the same as under the 8 & 9 Vict. c. 18 (tit. "*Lands Clauses Act*," *ante* p. 1446), s. 6.

Correction of errors and omissions in schedule to special act, by two justices (s. 7).

One justice may order carcases of cattle unfit for human food to be destroyed or otherwise disposed of (s. 20).

Two justices may grant a certificate of the market place or place for a fair or slaughter-house being completed and fit for public use (s. 32).

Disputes respecting stallage, rent or toll may be determined by a justice, and the amount levied by distress (s. 39).

Damages, &c. to be determined and recovered under the 8 & 9 Vict. c. 20 (s. 52). See tit. "*Railways*," *post*.

MASTER AND SERVANT. See "*Employers and Workmen*."

5 Geo. 4, c. 96; 1 Vict. c. 67.

Arbitration between Masters and Workmen.] Under the 5 Geo. 4, c. 96, a justice where the party complained against resides, who is not a master, manufacturer, or agent, may nominate referees in certain disputes between the masters and workmen in any trade or manufacture, as to the work or price, &c., or decide the dispute himself, and also enforce the award made by distress and imprisonment in default. The 30 & 31 Vict. c. 141, is not to affect this act (s. 18); but awards under the 30 & 31 Vict. c. 105, *infra*, are enforceable under the 5 Geo. 4, c. 96 (s. 4). For the provisions of the acts in the margin and the necessary forms given in the 5 Geo. 4, c. 96, see 5 Burn's Jus. 29th ed. pp. 914, 922, 939—941; Oke's *Formulist*," 6th ed. Nos. 7—16, pp. 860—864. 103

30 & 31 Vict. c. 105.

Enforcing Awards under Councils of Conciliation, Act, 1867.] By 30 & 31 Vict. c. 105, "to establish equitable councils of conciliation to adjust differences between masters and workmen" (which came into operation on the 2nd July, 1867), the powers of the 5 Geo. 4, c. 96, 1 Vict. c. 67, 8 & 9 Vict. c. 77, and 8 & 9 Vict. c. 128, for enforcing awards made therein, is extended to the enforcing of awards made by and under the authority of such equitable councils of conciliation, *i. e.*, by application to any justice of the county, riding, division, city, town or place within which the parties shall reside (s. 4). [Forms, given in the schedule to the act, Nos. 17—21, Oke's "*Formulist*," 6th edit. pp. 864, 865.]

MERCHANT SHIPPING. 105

17 & 18 Vict. c. 104.

Recovery from Owner of Ship of Expenses of sending Sick Seamen to Hospital.] By "The Merchant Shipping Act, 1854," 17 & 18

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103 *Vide* a form of agreement between farmer and labourer, and one used in the gun trade, Oke's "*Formulist*," 6th ed. pp. 858, 859.

c. 104, s. 229, expenses in respect of the illness, injury or 17 & 18 Vict. c. 104.
f any seaman or apprentice (as are to be borne by the owner
228), paid by any consular officer or other person on behalf of
ajesty, or any other expenses in respect of the illness, injury
t of any seaman or apprentice whose wages are not accounted
such officer so paid, such expenses are to be repaid to such
or other person by the master of the ship, and if not so repaid
nount thereof, with costs, is to be a charge upon the ship, and
overable from the said master or from the owner of the ship
time being, as a debt due to her Majesty, and be recoverable
by ordinary process of law, or in the manner in which seamen
reby enabled to recover wages;—and in any proceeding for
covery thereof, the production of a certificate of the facts,
l by such officer or other person, together with such vouchers
r), as the case requires, is to be sufficient proof that the ex-
s were duly paid by such consular officer or other person.

ring Lists of Voters for Members of Local Marine Boards.] 110 provides for the election of members of the local marine by the mayor of seaports, on the 25th January, in every year. By sect. 113, two justices (nominated by the mayor of sport at which there is a local marine board, 20 days at least 25th January, 1857, and in each succeeding *third* year—1860, 1866, 1869, 1872, 1875) are between the 8th and 15th days of ry in the year in which they are so nominated, to revise the f persons entitled to vote at the election of members of such at the custom house of the port, or in some convenient place thereto, of which revision three days' notice is to be given by tisement;—and such list, when revised, &c., is to be the register ree years, *i. e.*, from the date till the 24th January in the third and is to be signed by the justices, and handed to the mayor inting. The register of ships registered, &c. is to be produced justices if required (sect. 114). The justices are to certify penses of making, revising and printing the list, which are to id by the Board of Trade (sect. 115).

overy of Pilotage Dues. **106**] By sect. 363, pilotage dues pay-from the owner, master of ship or consignee of goods, after nd in writing seven days previously, may be "recovered in the manner as penalties of the like amount may be recovered r the act,"—*i. e.* within six months (s. 525, sub-s. 3), before r more justices (s. 518, sub-s. 3), or one stipendiary magistrate

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"The Merchant Shipping Act Amendment Act, 1862," 25 & 26 c. 63, ss. 39—42, contain various provisions in relation to exemptions compulsory pilotage, respecting which the pilotage authorities have r to make regulations, as well as to alter, &c., the rates of pilotage. 13 applies some of the provisions of the 17 & 18 Vict. c. 104, to hing Boats," "Lighthouse Vessels" and "Pleasure Yachts," for h see those titles in this Chapter.

17 & 18 Vict. c. 104.

(s. 519), either where the complaint actually arose, or w person complained against may be (s. 520), after summo may be served on board ship (s. 522), by distress of the de goods [and if owner or master summoned, on the ship's tac s. 523], and in default of distress [after service of the justic or minute] imprisonment without hard labour for not e three calendar months, unless sooner paid (11 & 12 Vict. 19, Vol. I. p. 225, and s. 22, p. 228). [Forms, Oke's "*Fo* 6th edit. p. 866.] The scale of pilotage is given in Table act (see s. 333). Payment of pilotage dues from foreign ships to and from the port of London is enforced in the same (see ss. 381—383). There would not be an appeal, as sect. 518 4 (Vol. I., *Note* 301, pp. 581, 582), applies to convictions on

Recovery of Pilotage Dues in Cinque Ports.] See 16 & 1 c. 129, ss. 3, 4, 5, 8, 9, and 17 & 18 Vict. c. 120, s. 15.

Recovery of Light Dues.] Sects. 396—401, contain provis to the levying of light dues by the collector of the general house authorities upon the ships; but by 25 & 26 Vict. c. 6 the same dues are now recoverable "in the same man penalties of the like amount may be recovered" by virtue 17 & 18 Vict. c. 104 [*i. e.* as pilotage dues, *supra*], from the or master, or the consignee or agent thereof who has paid o himself liable to pay any other charge on account of such the port of her arrival or discharge. By sect. 46, dues in r to local lights are recoverable in the same manner as light d

Recovery of Expenses of abating False Lights prohibited.] general lighthouse authority may prohibit false lights, and i notice the same is not extinguished or screened, may by the vants, &c. extinguish the light or fire, the expenses of doing may be recovered from the owner, &c. "in the same way as p ties" (ss. 415, 416). See mode, *supra*, as to pilotage dues.

Detention of Certificate of Registry of Ship.] See Vol. I. pp —582, Offences, 3, 4, 5, 5a.

See further, tits. "*Seamen*," and "*Wreck and Salvage*," *post*.

METROPOLITAN SUBURBAN RACECOURSES.

42 & 43 Vict. c. 18.

"*The Racecourses Licensing Act*, 1879" (42 & 43 Vict. c. enacts as follows,—

"1. *Definitions.*] A horse-race within the meaning of this shall mean any race in which any horse, mare, or gelding run or be made to run in competition with any other horse, m or gelding, or against time, for any prize of what nature or k soever, or for any bet or wager made or to be made in respect any such horse, mare, or gelding, or the riders thereof, and which more than twenty persons shall be present.

"2. *Horse-races Unlawful within Ten Miles of London unless Licensed.*] From and after the twenty-fifth day of March One thousand eight hundred and eighty it shall not be lawful that any horse-race be held or take place on any pretext whatsoever within a radius of ten miles from Charing Cross in the City of Westminster, unless in a place for which a licence for horse-racing has been obtained pursuant to the provisions hereinafter contained. 42 & 43 Vict. c. 18.

"3. *Power to Justices to license at Michaelmas Quarter Sessions.*] Any person desirous of obtaining a licence for horse-racing for any open or enclosed land or place, being the owner, lessee, or occupier of such land or place, may apply to the justices assembled at any Michaelmas quarter sessions of the peace to be holden for the county, city, riding, liberty, or division in which such land or place is situate, which justices are hereby empowered to grant or withhold a licence at their discretion, such licence to be of force and valid for twelve months dating from the twenty-fifth day of March next following the date of such application.

"4. *Mode of making Application for Licence.*] Every such application shall be made to the justices in the same manner as applications for licences for places to be kept for public dancing, music, or other entertainment under the provisions of an act passed in the twenty-fifth year of his late Majesty King George the Second.

"5. *Penalty on Persons taking part in Unlicensed Horse-races.*] Any person who after the said twenty-fifth day of March One thousand eight hundred and eighty shall take part in any horse-race in any open or enclosed land or place for which a licence is required under this act, and for which a licence has not been obtained, shall upon summary conviction be liable to a penalty of ten pounds, or an imprisonment not exceeding two months.

"6. *Penalty on Owners and Occupiers of Ground where Unlicensed Horse-races take place.*] Any person who shall be the owner or lessee or in possession or occupation of any open or enclosed land or place for which a licence for horse-racing is required under this act, and upon which any horse-race shall be held after the said twenty-fifth day of March one thousand eight hundred and eighty without such licence having been obtained, shall be guilty of a misdemeanor, and on conviction thereof shall be punishable for every such offence with fine or imprisonment at the discretion of the court, such fine not to be less than five pounds nor more than twenty-five pounds, and such imprisonment not to be less than one month nor more than three months.

"7. *Unlicensed Horse-races to be deemed a Nuisance, and liable accordingly.*] Every horse-race held or taking place in contravention of the provisions of this act shall be deemed to be a nuisance, and any person injured or inconvenienced thereby shall

42 & 43 Vict. c. 18.

have all such rights and remedies against all persons taking part in the same, and against owners, lessees, and occupiers of the land or place, as he would have in case of a nuisance at common law.

"8. *Short Title.*] This act may be cited as the Racecourses Licensing Act, 1879.

MILITARY LAW (ARMY).

42 & 43 Vict. c. 33.

By sect. 77 of "The Army Discipline and Regulation Act, 1879" (42 & 43 Vict. c. 33), it is enacted that—

"*Enlistment—Swearing Recruits.*] Every person authorized to enlist recruits in the regular forces (in this act referred to as the 'recruiter'), shall give to every person offering to enlist a notice in the form for the time being authorized by a secretary of state, stating the general requirements of attestation and the general conditions of the contract to be entered into by the recruit, and directing such person to appear before a justice of the peace at the time and place therein mentioned.

"Upon the appearance before a justice of the peace of a person offering to enlist, the justice shall ask him whether he assents to be enlisted, and shall not proceed with the enlistment if he considers the recruit under the influence of liquor.

"If he does not appear before a justice, or on appearing does not assent to be enlisted, no further proceedings shall be taken.

"If he assents to be enlisted—

"(1) The justice, after cautioning such person that if he makes any false answer to the questions read to him, he will be liable to be punished as provided by this act, shall read or cause to be read to him the questions set forth in the attestation paper for the time being authorized by a secretary of state, and shall take care that such person understands each question so read; and after ascertaining that the answer of such person to each question has been duly recorded opposite the same in the attestation paper, shall require him to make and sign the declaration as to the truth of those answers set forth in the said paper, and shall then administer to him the oath of allegiance contained in the said paper:

"(2) Upon signing the declaration and taking the oath, such person shall be deemed to be enlisted as a soldier of her Majesty's regular forces:

'(3) The justice shall attest by his signature, in manner required by the said paper, the fulfilment of the requirements as to attesting a recruit, and shall deliver the attestation paper duly dated to the recruiter:

'(4) The fee for the attestation of a recruit, and for all acts and

things incidental thereto, shall be one shilling and no more, and shall be paid to the clerk of the justice: 42 & 43 Vict. c. 33.

The officer who finally approves of a recruit for service shall at his request furnish him with a certified copy of his attestation paper.

date at which the recruit signs the declaration and takes h in this section in that behalf mentioned, shall be deemed he date of the attestation of such recruit. The competent y authority, if satisfied that there is any error in the attesta- per of a recruit, may cause the recruit to attend before some of the peace, and that justice, if satisfied that such error and is not so material as to render it just that the recruit be discharged, may amend the error in the attestation paper, paper as amended shall thereupon be deemed as valid as if tter of the amendment had formed part of the original matter paper.

erters.] With respect to deserters the following provisions ave effect:— Sect. 147.

) Upon reasonable suspicion that a person is a deserter, it shall be lawful for any constable, or if no constable can be immediately met with, then for any officer or soldier or other person, to apprehend such suspected person, and forthwith to bring him before a court of summary jurisdiction:

) Where a person is brought before a court of summary jurisdiction charged with being a deserter under this act, such court may deal with the case in like manner as if such person were brought before the court charged with an indictable offence, or in Scotland, an offence:

) The court, if satisfied either by evidence on oath or by the confession of such person that he is a deserter, shall forthwith as it may seem to the court most expedient with regard to his safe custody, cause him either to be delivered into military custody in such manner as the court may deem most expedient, or until he can be so delivered, to be committed to some prison, police station, or other place legally provided for the confinement of persons in custody, for such reasonable time as appears to the court reasonably necessary for the purpose of delivering him into military custody:

(4) Where the person confessed himself to be a deserter, and evidence of the truth or falsehood of such confession is not then forthcoming, the court shall remand such person for the purpose of obtaining information as to the truth or falsehood of the said confession, and for that purpose the court shall transmit, if sitting in the United

42 & 43 Vict. c. 33.

Kingdom, to a secretary of state . . . a return (in this act referred to as a descriptive return) containing such particulars and being in such form as is specified in the fifth schedule to this act, or as may be from time to time directed by a secretary of state:

"(5) The court may from time to time remand the said person for a period not exceeding eight days in each instance, and not exceeding in the whole such period as appears to the court reasonably necessary for the purpose of obtaining the said information:

"(6) Where the court cause a person either to be delivered into military custody or to be committed as a deserter, the court shall send, if in the United Kingdom, to a secretary of state . . . a descriptive return in relation to such deserter, for which the clerk of the court shall be entitled to a fee of two shillings."

Sect. 92.

"*Apprentices Enlisting.*] The master of an apprentice in the United Kingdom who has been attested as a soldier of the regular forces may claim him while under the age of twenty-one years as follows, but not otherwise:

"(1) The master, within one month after the apprentice left his service, must take before a justice of the peace the oath in that behalf specified in the second schedule to this act, and obtain from the justice a certificate of having taken such oath, which certificate the justice shall give in the form in the said schedule, or to the like effect:

"(2) A court of summary jurisdiction, within whose jurisdiction the apprentice may be, if satisfied on complaint by the master that he is entitled to have the apprentice delivered up to him, may order the officer under whose command the apprentice is, to deliver him to the master, but if satisfied that the apprentice stated on his attestation that he was not an apprentice, may, and if required by or on behalf of the said commanding officer, shall try the apprentice for the offence of making such false statement, and if need be may adjourn the case for the purpose."

MILITIA.

Oath to Volunteers.] Any justice of the peace may administer the oath which, under the 15 & 16 Vict. c. 50, is to be taken by every volunteer (23 & 24 Vict. c. 94, s. 13).

Deserters.] Militiamen deserting, see Offences 1, 2, and also 22 & 23 Vict. c. 38, ss. 10, 11, 12, and 23 & 24 Vict. c. 94, s. 15, Vol. I. pp. 616, 617.

Army Enlistment Act, 33 & 34 Vict. c. 67, and the Army ation Act, 34 & 35 Vict. c. 86, contain provisions relating to ilitia. See also "The Militia Reserve Act, 1867," 30 & 31 c. 111.

NATURALIZATION. See tit. "*Aliens*," *ante*, p. 1316.

AL AND MILITARY STATIONS, CONTAGIOUS DISASES AT. See "*Contagious Diseases at Naval and Military tations*," *ante*, pp, 1359—1363.

AL STORES. See as to issue of search warrant for these stores, *Note* **339**, Vol. I. p. 641.

NITRO GLYCERINE.

"The Nitro Glycerine Act, 1869," 32 & 33 Vict. c. 113 [passed August, 1869], s. 3, nitro glycerine (which "means the sub- e called or known by that name, or as glonoine oil, and this xtends to every substance having nitro glycerine in any form e of its component parts or ingredients in the same manner as were nitro glycerine," s. 2) is prohibited from being imported or exported from the United Kingdom; and regulations are ined in sect. 4 as to its manufacture, sale, or carriage under a ce from the secretary of state; noncompliance with the act or lations being an indictable misdemeanor. [See Offence 156, 'Dangerous Goods," *ante*, p. 1064.] 32 & 33 Vict. c. 113.

her Dangerous Goods.] See Indictable Offence 155, tit. "*Dan- s Goods*," *ante*, p. 1062.

NUISANCES (THE METROPOLIS).

own to the passing of "The Public Health Act, 1875," the ances Removal Acts in force were, "The Nuisances Removal for England, 1855," 18 & 19 Vict. c. 121; "The Diseases Pre- ion Act, 1855," 18 & 19 Vict. c. 116; the 23 & 24 Vict. c. 77; 26 & 27 Vict. c. 117; and "The Sanitary Act, 1866," 29 & 30 c. 90. "The Public Health Act, 1875," however, wholly als these statutes, "except so far as relates to the metropolis." therefore, these statutes still remain in force with reference to metropolis, it has been thought advisable still to refer to them this place, cautioning the reader that they now apply to the tropolis alone. **106**

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06 By sect. 4 of the Public Health Act, "the metropolis" means the of London and all parishes and places mentioned in Schedules A., B. C. to "The Metropolis Management Act, 1855" (18 & 19 Vict. c. 120).

I. *Removal of Nuisances.*
II. *Diseases Prevention.*

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1. *Removal of Nuisances.*

18 & 19 Vict. c. 121.

The Local Authority.] The following bodies are the authority for executing the 18 & 19 Vict. c. 121, in the sev tricts (they being incorporated by 29 & 30 Vict. c. 90, s. 46

District.	*Local Auth*
1. Place within which the Public Health Act is or shall be in force (23 & 24 Vict. c. 77, s. 2).	Local Board o
2. Place wherein a council exists or shall exist, except cities of London and Oxford, and Cambridge (Id.).	Mayor, Alder Burgesses, Council
3. City of London and the liberties thereof (Id.)	Commission Sewer
4. City of Oxford (Id.)	Commissioner under th Improvemen
5. Borough of Cambridge (23 & 24 Vict. c. 77, s. 2).	Commissioner under th Improvemen
6. Place in which there is no Local Board of Health *or* council, *or* where there are or shall be trustees or commissioners under an Improvement Act (Id.).	Trustees or C sioners acting u Improvemen
7. Place in which there is no Local Board of Health, council, body of trustees, or commissioners, if there be a board of guardians of the poor for such place, or for any parish or union within which such place is situate (Id.).	Board of Gua
8. If there be no such board of guardians (Id.).	The Overseers Poor for such p for the parish o such place form
9. Place where a Highway Board or the Nuisances Removal Committee, chosen by the vestry in pursuance of 18 & 19 Vict. c. 121, s. 3, is subsisting, and on 6th August, 1860, employs or joins with other local authorities in employing a sanitary inspector or inspectors (Id.). 107	The Highway *or* Nuisances moval Committ

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107 The 18 & 19 Vict. c. 121, s. 3 (repealed by 23 & 24 Vict. c. 77) enacted, that a committee for carrying the act into execution, name of "The Nuisances Removal Committee," of which the surve surveyors of highways for the time being shall be *ex officio* mem members, may be annually chosen by the vestry on the same day overseers or surveyors; the committee to consist of not more than members, exclusive of the surveyor or surveyors; three to be a qu By 29 & 30 Vict. c. 90, s. 17, the 23 & 24 Vict. c. 77, s. 3, hereo pealed, and "all powers vested in any highway board or 'nuisance re committee' under the Nuisances Removal Acts shall determine, a property belonging to them for the purposes of the said Nuisance moval Acts shall, subject to any debts or liabilities affecting the sam transferred to or vested in the nuisance authority under the said act

tices interested.] By 29 & 30 Vict. c. 41, s. 2 (s. 1 repealing 24 Vict. c. 77, s. 16), "no justice of the peace shall be deemed able of acting in cases under the Nuisances Removal Act, or ct of the twenty-third and twenty-fourth Victoria, chapter ty-seven, by reason of his being a member of any body by declared to be the authority to execute the said act, or by n of his being a contributor or liable to contribute to any rate nd out of which it is thereby provided that all charges and ses incurred in executing the said act, and not recovered as in provided, shall be defrayed." 29 & 30 Vict. c. 41.

at are Nuisances under the Acts.] 18 & 19 Vict. c. 121, s. 8, s,—the word "nuisances" shall include— 18 & 19 Vict. c. 121.

Any premises in such a state as to be a nuisance or injurious to health:

Any pool, ditch, gutter, watercourse, privy, urinal, cesspool, drain or ashpit so foul as to be a nuisance or injurious to health:

Any animal so kept as to be a nuisance or injurious to health:

Any accumulation or deposit which is a nuisance or injurious to health;—provided always, that no such accumulation or deposit as shall be necessary for the effectual carrying on of any business or manufacture shall be punishable as a nuisance under this section, when it is proved to the satisfaction of the justice that the accumulation or deposit has not been kept longer than is necessary for the purposes of such business or manufacture, and that the best available means have been taken for protecting the public from injury to health thereby.

Draper v. *Sperring*, 30 L. J. (N. S.) M. C. 225; 4 Law T., 365, as to recurring nuisance by sheep droppings in a market; *th* v. *Waghorn*, 27 J. P. 744, offensive matter from a stable.]

29 & 30 Vict. c. 90, s. 19, the following addition has been made he definition:—

he word "nuisances" under the Nuisance Removal Acts shall nde,—

Any house or part of a house so overcrowded as to be dangerous or prejudicial to the health of the inmates:

Any factory, workshop or workplace not already under the operation of any general act for the regulation of factories or bakehouses, not kept in a cleanly state, or not ventilated in such a manner as to render harmless as far as practicable any gases, vapours, dust or other impurities generated in the course of the work carried on therein that are a nuisance or injurious or dangerous to health, or so overcrowded while work is carried on as to be dangerous or prejudicial to the health of those employed therein:

[illegible] [illegible] or furnace which does not as far as prac[illegible] [illegible] the smoke arising from the combustible u[illegible] [illegible] fireplace or furnace, and is used within the distri[illegible] [illegible] authority for working engines by steam, or [illegible] [illegible] dyehouse, brewery, bakehouse or gasw[illegible] [illegible] manufactory or trade process whatsoever:

[illegible] not being the chimney of a private dw[illegible] [illegible] sending forth black smoke in such quantity as to [illegible]

[illegible] that in places where at the time of the p[illegible] [illegible] is in force compelling firepla[illegible] [illegible] to consume their own smoke, the foregoing [illegible] as to fireplaces and furnaces consuming thei[illegible] [illegible] shall not come into operation until the expirati[illegible] [illegible] from the date of the passing of this act:

[illegible] that where a person is summoned before the ju[illegible] [illegible] a nuisance arising from a fireplace or fu[illegible] [illegible] does not consume the smoke arising from the com[illegible] [illegible] used in such fireplace or furnace, the justices may [illegible] that no nuisance is created within the meaning of this [illegible] and dismiss the complaint, if they are satisfied that such [illegible] or furnace is constructed in such manner as to cons[illegible] as far as practicable, having regard to the nature of [illegible] manufacture or trade, all smoke arising therefrom, and [illegible] such fireplace or furnace has been carefully attended t[illegible] the person having the charge thereof.

[illegible] The act is not to impair the jurisdiction of se[illegible] [illegible] commissioners, or common law remedies for nuisa[illegible] [illegible] of smoke nuisances, common lodging-houses, m[illegible] [illegible] public health or improvement acts (18 & 19 V[illegible] [illegible] s. 4[illegible]);—nor to affect the navigation of rivers or canals (s. [illegible] —and saves the rights of millowners and waterwork compa[illegible] (s. 4[illegible]).

Powers and Duties of Local Authority.] To appoint committe[illegible] receive notices and take proceedings (18 & 19 Vict. c. 121, s [illegible] 23 & 24 Vict. c. 77, s. 5);—to appoint inspectors of nuisances [illegible] a salary (23 & 24 Vict. c. 77, s. 9);—to make entry of premi[illegible] for specified purposes;—to ground proceedings;—to examine p[illegible] mises where nuisances exists, &c., and to remove or abate a nuisa[illegible] (18 & 19 Vict. c. 121, s. 11), which power may be exercised [illegible] any business hour (29 & 30 Vict. c. 90, s. 31);—to procure sanita[illegible] reports and pay for same (23 & 24 Vict. c. 77, s. 14);—to aba[illegible] nuisance and charge the cost of abating same to the person [illegible] whom justices' order is made (18 & 19 Vict. c. 121, s. 12), [illegible] paid out of funds of local authority when owner cannot be foun[illegible] (Id. s. 17);—to cover and improve open ditches (Id. s. 22);—to tak[illegible]

dings for overcrowding (Id. s. 29);—to order costs of prose- to be paid out of fund (Id. s. 30; and 23 & 24 Vict. c. 77, nd 29 & 30 Vict. c. 90, s. 33;—and they may authorize their or any officer or member to appear before justices and to ute and carry on proceedings under the acts (29 & 30 Vict. s. 48). By 29 & 30 Vict. c. 90, s. 20, "It shall be the duty nuisance authority to make from time to time, either by or its officers, inspection of the district, with a view to ascer- hat nuisances exist calling for abatement under the powers Nuisances Removal Acts, and to enforce the provisions of aid acts in order to cause the abatement thereof, also to ce the provisions of any act that may be in force within its ct requiring fireplaces and furnaces to consume their own e;—and any justice, upon complaint upon oath may make an to admit the nuisance authority or their officers for these pur- , as well as to ground proceedings under the 11th section of Nuisances Removal Act, 1855.'"

18 & 19 Vict. c. 121.

liminaries to the Procedure before Justices.] Notice of the ance is to be given to the local authority by any of the follow- persons:—any person aggrieved by the nuisance;—the sanitary ector or any paid officer of the local authority;—two or more bitant householders of the parish or place;—any constable or officer of the constabulary or police force of the district or e;—and in case the premises be a common lodging-house, the on appointed for inspection of common lodging-houses (18 & Vict. c. 121, s. 10). The local authority may, under sect. 10, ct an officer to make entry of the premises to see if nuisance ts, previous to which a notice of such intention is to be given required by 29 & 30 Vict. c. 90, s. 21, *infra*. If admission to ate premises not granted, and also where no person is in session, a justices' order should be obtained (s. 11), which order tinues in force till the nuisance is abated (29 & 30 Vict. c. 90, 1). If the nuisance exists, local authority to direct officer to e proceedings before justices (18 & 19 Vict. c. 121, ss. 5, 12; l see 29 & 30 Vict. c. 90, s. 48), for which the copy resolution is dence (18 & 19 Vict. c. 121, s. 32). By 29 & 30 Vict. c. 90, s. 21, he nuisance authority or chief officer of police shall, previous to ing proceeding before a justice under the twelfth section of nisances Removal Act, 1855, serve a notice [*Amys* v. *Creed*, L. J. (N. S.) M. C. 22], on the person by whose act, default, or ferance the nuisance arises or continues, or if such person cnot be found or ascertained, on the owner or occupier of the emises on which the nuisance arises, to abate the same, and r that purpose to execute such works, and to do all such things may be necessary within a time to be specified in the notice: rovided,

"First, that where the nuisance arises from the want or defective

18 & 19 Vict. c. 121.

construction of any structural convenience, or wher is no occupier of the premises, notice under this shall be served on the owner:

"Secondly, that where the person causing the nuisance be found, and it is clear that the nuisance does not continue by the act, default, or sufferance of the o occupier of the premises, then the nuisance authori itself abate the same without further order, and the so doing shall be part of the costs of executing the Nu Removal Acts, and borne accordingly."

Procedure before Justices.] 18 & 19 Vict. c. 121, s. 12, en "in any case where a nuisance is so ascertained by th authority to exist,109—or where the nuisance, in their o did exist at the time when the notice was given, and al the same may have since been removed or discontinued, is i opinion likely to recur or to be repeated on the same prem any part thereof,—they shall cause complaint thereof to be before a justice of the peace, and such justice shall the issue a summons requiring the person by whose act, default mission or sufferance the nuisance arises or continues, 110— such person cannot be found or ascertained, the owner or o of the premises on which the nuisance arises,—to appear any two justices in petty sessions assembled at their usual pl meeting, who shall proceed to inquire into the said compla and if it be proved to their satisfaction that the nuisance ex or did exist at the time when the notice was given,—or, if re or discontinued since the notice was given, that it is likely to or to be repeated,—the justices shall make an order in w under their hands and seals on such person, owner or occupi the abatement or discontinuance and prohibition of the nuisan hereinafter mentioned [in s. 13, *infra;* and see *Ex parte Mayor, &c. of Liverpool*, 27 L. J. (N. S.) M. C. 89], and shall make an order for the payment of all costs incurred up to the of hearing or making the order for abatement or discontinuan prohibition of the nuisance.

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109 Within their district, by an act done also within such distri v. *Cotton*, 28 L. J. (N. S.) M. C. 22; 32 Law T. 125). By 29 & 3 c. 90. s. 32, "any ship or vessel lying in any river, harbour or othe shall be subject to the jurisdiction of the nuisance authority of the d within which such river, harbour or other water is, and be within th visions of the Nuisances Removal Acts, in the same manner as if it a house within such jurisdiction,—and the master or other officer in of such ship shall be deemed for the purposes of the Nuisances R Acts to be the occupier of such ship or vessel; but this section sha apply to any ship or vessel belonging to her Majesty or to any for government."

110 See hereon *Brown* v. *Bussell*, *Francomb* v. *Freeman*, 37 L (N. S.) M. C. 65; *Guardians of Hendon Union* v. *Bowles*, 17 Law. N. S. 597; *Proprietors of Margate Pier* v. *Town Council of Marg* Law T., N. S. 564.

r for Abatement of Nuisance and Prohibition against future 18 & 19 Vict.
ce.] 18 & 19 Vict. c. 121, s. 13, provides that the justices' c. 121.
may require in the four descriptions of nuisances set out in
, and which may be conveniently placed in the same order,

s respects Nuisance No. 1, in the 18 & 19 Vict. c. 121, s. 8,—
"To provide sufficient privy accommodation, means of drainage or ventilation,—or to make safe and habitable,—or to pave, cleanse, whitewash, disinfect, or purify—the premises which are a nuisance or injurious to health, or such part thereof as the justices may direct in their order:"

s respects Nuisance No. 2,—"To drain, empty, cleanse, fill up, amend or remove the injurious pool, ditch, gutter, watercourse, privy, urinal, cesspool, drain, or ashpit, which is a nuisance or injurious to health,—or to provide a substitute for that complained of:"

s respects Nuisance No. 3,—"To provide for the cleanly and wholesome keeping of the animal kept so as to be a nuisance or injurious to health,—or if it be proved to the justices to be impossible so to provide, then to remove the animal:"

s respects Nuisance No. 4,—"To carry away the accumulation or deposit which is a nuisance or injurious to health:"

y or all of these things (according to the nature of the nce),—or to do such other works or acts as are necessary to the nuisance complained of, in such manner and within such as in such order shall be specified;

And if the justices are of opinion that such or the like nuisance ely to recur, the justices may further prohibit the recurrence and direct the works necessary to prevent such recurrence, e case may in the judgment of such justices require;—

And if the nuisance proved to exist be such as to render a e or building, in the judgment of the justices, unfit for an habitation, they may prohibit the using thereof for that ose until it is rendered fit for that purpose in the judgment of justices, and on their being satisfied that it has been rendered r such purpose they may determine their previous order by her, declaring such house habitable,—from the date of which r order such house may be let or inhabited." And by sect. 14, e local authority may, under the powers of entry given by the (see s. 11), enter the premises to which the order relates, and ove or abate the nuisance condemned or prohibited, and do ever may be necessary in execution of such order, and charge cost to the person on whom the order is made, as hereinafter vided" in 18 & 19 Vict. c. 121, ss. 19, 20.

he justices may also, when it shall appear to them that the

18 & 19 Vict. c. 121.

execution of structural works is required for the abatement of a nuisance, direct such works to be carried out under the direction or with the consent or approval of any public board, trustee or commissioners having jurisdiction in the place in respect of such works (18 & 19 Vict. c. 121, s. 16; see *Ex parte, The Mayor, &c. of Lverpool*, 27 L. J. (N. S.) M. C. 89).

Whenever the person causing the nuisance, or the owner or occupier, is not known or cannot be found, the justices may address their order to the local authority, who may execute the works (18 & 19 Vict. c. 121, s. 17).

If the occupier prevent the owner executing the works ordered, a justice may by order in writing require the occupier to desist from such prevention, if he thinks it to be necessary for the purpose of carrying into effect the act (18 & 19 Vict. c. 121, s. 37). A penalty of £5 is imposed for disobeying the order.

Powers of Police.] By 29 & 30 Vict. c. 90, s. 16, "In any place within the jurisdiction of a nuisance authority, the chief officer of police within that district, by and under the directions of one of her Majesty's principal secretaries of state [now the "Local Government Board," 34 & 35 Vict. c. 70], on its being proved to his satisfaction that the nuisance authority has made default in doing its duty, may institute any proceeding which the nuisance authority of such place might institute with respect to the removal of nuisances:—Provided always, that no officer of police shall be at liberty to enter any house or part of a house used as the dwelling of any person without such person's consent, or without the warrant of a justice of the peace, for the purpose of carrying into effect this act."

Power to cause Premises to be cleansed and disinfected,—to provide means of Disinfection.] By 29 & 30 Vict. c. 90, s. 22, "if the nuisance authority shall be of opinion, upon the certificate of any legally qualified medical practitioner, that the cleansing and disinfecting of any house or part thereof, and of any articles therein likely to retain infection, would tend to prevent or check infectious or contagious disease, it shall be the duty of the nuisance authority to give notice in writing requiring the owner or occupier of such house or part thereof to cleanse and disinfect the same as the case may require;—and the nuisance authority shall cause such house or part thereof to be cleansed and disinfected, and may recover the expenses incurred from the owner or occupier in default in a summary manner—[as provided by sect. 54];—when the owner or occupier of any such house or part thereof as is referred to in this section is from poverty or otherwise unable, in the opinion of the nuisance authority, effectually to carry out the requirements of this section, such authority may, without enforcing such requirements on such owner or occupier, with his consent, at its own expense,

e and disinfect such house or part thereof and any articles n likely to retain infection." By sect. 23, "the nuisance rity in each district may provide a proper place, with all ary apparatus and attendance, for the disinfection of woollen s, clothing, or bedding which have become infected,—and ay cause any articles brought for disinfection to be disin- free of charge." 18 & 19 Vict. c. 121.

viding Carriages for Conveyance of Infected Persons.] By 29 Vict. c. 90, s. 24, "it shall be lawful at all times for the nce authority to provide and maintain a carriage or carriages le for the conveyance of persons suffering under any conta- or infectious disease, and to pay the expense of conveying erson therein to a hospital or place for the reception of the or to his own home." By sect. 25, "if any person suffering any dangerous infectious disorder shall enter any public con- nce without previously notifying to the owner or driver thereof he is so suffering," he is liable to a penalty not exceeding £5, o pay to the owner and driver all the losses and expenses they suffer in carrying into effect the provisions of this act;—"and wner or driver of any public conveyance shall be required to ey any person so suffering until they shall have been first paid n sufficient to cover all such losses and expenses."

moval of Sick Persons without Lodging to Hospital—Sick ons brought by Ships.] By 29 & 30 Vict. c. 90, s. 26, "where spital or place for the reception of the sick is provided within district of a nuisance authority, any justice may, with the ent of the superintending body of such hospital or place, by r on a certificate signed by a legally qualified medical practi- er, direct the removal to such hospital or place for the reception he sick, at the cost of the nuisance authority, of any person ering from any dangerous, contagious or infectious disorder, g without proper lodging or accommodation, *or* lodged in a occupied by more than one family, *or* being on board any ship essel." By sect. 29, "any nuisance authority may, with the tion of the privy council [now 'Local Government Board,' t 35 Vict. c. 70], signified in manner provided by 'The lic Health Act, 1858,' lay down rules for the removal to any ital to which such authority is entitled to remove patients, and keeping in such hospital so long as may be necessary any ons brought within their district by any ship *or* boat who are cted with a dangerous and infectious disorder,—and they may such rules impose any penalty not exceeding 5*l.* on any person mitting any offence against the same." By sect. 30, "for the poses of this act any ship, vessel, or boat that is in a place not hin the district of a nuisance authority shall be deemed to be hin the district of such nuisance authority as may be prescribed

18 & 19 Vict. c. 121.

by the privy council,—and until a nuisance authority has been prescribed, then of the nuisance authority whose district nearest adjoins the place where such ship, vessel, or boat is lying, the distance being measured in a straight line, but nothing in this act contained shall enable any nuisance authority to interfere with any ship, vessel, or boat that is not in British waters."

Providing Places for the Reception of Dead Bodies.] By 29 & 30 Vict. c. 90, s. 27, "any nuisance authority may provide a proper place for the reception of dead bodies, and where any such place has been provided and any dead body of one who has died of any infectious disease is retained in a room in which persons live or sleep, or any dead body which is in such a state as to endanger the health of the inmates of the same house or room is retained in such house or room, any justice may, on a certificate signed by a legally qualified medical practitioner, order the body to be removed to such proper place of reception at the cost of the nuisance authority, and direct the same to be buried within a time to be limited in such order;—and unless the friends or relations of the deceased undertake to bury the body within the time so limited, and do bury the same, it shall be the duty of the relieving officer to bury such body at the expense of the poor rate, but any expense so incurred may be recovered by the relieving officer in a summary manner [as provided by sect. 54] from any person legally liable to pay the expense of such burial." By sect. 28, "any nuisance authority may provide a proper place (otherwise than at a workhouse or at a mortuary house as lastly hereinbefore provided for) for the reception of dead bodies for and during the time required to conduct any post-mortem examination ordered by the coroner of the district or other constituted authority, and may make such regulations as they may deem fit for the maintenance, support and management of such place—and where any such place has been provided, any coroner or other constituted authority may order the removal of the body for carrying out such post-mortem examination and the re-removal of such body, such costs of removal and re-removal to be paid in the same manner and out of the same fund as the costs and fees for post-mortem examination when ordered by the corner."

Power to provide Hospitals.] By 29 & 30 Vict. c. 90, s. 37, "the sewer authority, or in the metropolis the nuisance authority, may provide for the use of the inhabitants within its district hospitals or temporary places for the reception of the sick. Such authority may itself build such hospitals or places of reception, or make contracts for the use of any existing hospital or part of a hospital, or for the temporary use of any place for the reception of the sick. It may enter into any agreement with any person or body of persons having the management of any hospital for the reception of

sick inhabitants of its district, on payment by the sewer rity of such annual or other sum as may be agreed upon. carrying into effect this section shall in the case of a sewer rity be deemed to be one of the purposes of the said 'Sewage ation Act, 1865,' and all the provisions of the said act shall accordingly [see *post*, tit. '*Sewage Utilization*']. Two or authorities having respectively the power to provide separate tals may combine in providing a common hospital, and all ses incurred by such authorities in providing such hospital be deemed to be expenses incurred by them respectively in ng into effect the purposes of this act." This provision een amended by 31 & 32 Vict. c. 115, s. 10, which enacts,— sewer authority, or in the metropolis the nuisance authority, have the like power to make provisions for the temporary ly of medicine and medical assistance for the poorer in- ants as it now has to provide hospitals or temporary places for eception of the sick under the thirty-seventh section of 'The ary Act, 1866,' but such power to make provision for the orary supply of medicine and medical assistance shall not be ised without the sanction of her Majesty's privy council."

18 & 19 Vict. c. 121.

ver to make Regulations as to Lodging Houses.] By 29 & 30 . c. 90, s. 35, "on application to one of her Majesty's principal taries of state by the nuisance authority of the city of lon, or any district or parish included within the act for the r local government of the metropolis, or of any municipal ugh, or of any place under 'The Local Government Act, ,' or any local improvement act, or of any city or town con- ing, according to the census for the time being in force, a ulation of not less than five thousand inhabitants, the secretary tate [now the Local Government Board, 34 & 35 Vict. c. 70] , as he may think fit, by notice to be published in the London ette, declare the following enactment to be in force in the rict of such nuisance authority, and from and after the publi- on of such notice the nuisance authority shall be empowered to e regulations for the following matters; that is to say,

"1. For fixing the number of persons who may occupy a house or part of a house which is let in lodgings or occupied by members of more than one family:

"2. For the registration of houses thus let or occupied in lodgings:

"3. For the inspection of such houses, and the keeping the same in a cleanly and wholesome state:

"4. For enforcing therein the provision of privy accommodation and other appliances and means of cleanliness in proportion to the number of lodgings and occupiers, and the cleansing and ventilation of the common passages and staircases:

18 & 19 Vict. c. 121.

"5. For the cleansing and lime-whiting at stated times of such premises:

"The nuisance authority may provide for the enforcement of the above regulations by penalties not exceeding forty shillings for any one offence, with an additional penalty not exceeding twenty shillings for every day during which a default in obeying such regulations may continue;—but such regulations shall not be of any validity unless and until they shall have been confirmed by the secretary of state. But this section shall not apply to common lodging houses within the provisions of 'The Common Lodging Houses Act, 1851,' or any act amending the same."

Open Ditches, &c.] By 18 & 19 Vict. c. 121, s. 22, the local authority may cover and improve [but not reconstruct, *Reg.* v. *Epsom Union*, 8 Law T., N. S. 383] any ditch, gutter, drain or watercourse used or partly used for the conveyance of any water, filth, sewage or other matter from houses, buildings or premises, which is a nuisance;—and parties are liable to the same penalties for interfering therewith as in the 67th and 68th sections of 5 & 6 Will. 4, c. 50. The local authority may assess the houses, &c. to the costs, to be recovered as highway rates. (See *Reg.* v. *Middleton*, 28 L. J. (N. S.) M. C. 41; 32 Law T. 124; *Reg.* v. *Justices of Surrey*, 24 J. P. 802, 806; *Reg.* v. *Gosse*, 30 L. J. (N. S.) M. C. 41; 3 Law T., N. S. 404; *Reg.* v. *Bodkin and others, Justices of Middlesex*, 30 L. J. (N. S.) M. C. 38.)

Destruction of Unwholesome Meat, &c.] By 26 & 27 Vict. c. 117, s. 2 (the corresponding enactment in 18 & 19 Vict. c. 121, s. 26, being repealed by s. 1), "the medical officer of health or inspector of nuisances may at all reasonable times inspect and examine any animal, carcase, meat, poultry, game, flesh, fish, fruit, vegetables, corn, bread or flour exposed for sale, *or* deposited in any place for the purpose of sale *or* of preparation for sale, *and* intended for the food of man, the proof that the same was not exposed or deposited for such purpose or purposes, or was not intended for the food of man, resting with the party charged; and in case any such animal, carcase, meat, poultry, game, flesh, fish, fruit, vegetables, corn, bread or flour appear to him to be diseased, *or* unsound, *or* unwholesome, *or* unfit for the food of man, it shall be lawful for such medical officer of health or inspector of nuisances to seize, take and carry away the same, or direct the same to be seized, taken and carried away by any officer, servant or assistant, in order to have the same dealt with by a justice;—and if it shall appear to the justice that any such animal, or any of the said articles, is diseased, or unsound, or unwholesome, or unfit for the food of man, he shall order the same to be destroyed, *or* so disposed of as to prevent such animal or articles from being exposed for sale or used for such food."

Watercourses.] See 21 & 22 Vict. c. 98, s. 31. 18 & 19 Vict. c. 121.

for Removal of Nuisance on private Premises on Application ihabitant alone.] By 23 & 24 Vict. c. 77, s. 13, "upon com- efore a justice of the peace by any inhabitant of any parish of the existence of any nuisance on any private premises ame parish or place, such justice shall issue a summons g the person by whose act, default, permission or sufferance sance arises, or, if such person cannot be found or ascer- the owner or occupier of the premises on which the nuisance o appear before two justices in petty sessions assembled at ual place of meeting, who shall proceed to inquire into the nplaint, and act in relation thereto as in cases where com- s made by a local authority under sect. 12 of the said Nuis- Removal Act, and as if the person making the complaint ch local authority [but no notice is necessary before the ns, as required by 29 & 30 Vict. c. 90, s. 21; *Cocker* v. *Card-* L. J. (N. S.) M. C. 28; 21 Law T., N. S. 457];—provided , that it shall be lawful for the said justices, if they see fit, urn the hearing or further hearing of such summons for an ation of the premises where the nuisance is alleged to exist, require the admission or authorize the entry into such pre- of any constable or other person or persons, and thereupon rson or persons authorized by the order of the justices may nd act as the local authority might under a like order made justice under sect. 11 of the said act;—provided also, that sts in the case of every such application shall be in the dis- of the justices, and payment thereof may be ordered and ed as in other cases of summary adjudication by justices;— der made by justices under this enactment shall be attended he like penalties and consequences for disobedience thereof, bject to the like appeal as any order made under sect. 12 of id Nuisances Removal Act,—and the justices making such may thereby authorize any constable or other person or per- o do all acts for removing or abating the nuisance condemned hibited, and for executing such order, in like manner as a uthority obtaining the like order might do under the said act, o charge the costs to the person on whom the order is made, provided in the case where a like order is obtained and ted by such local authority."

isances arising in cases of Noxious Trades: 18 & 19 *Vict.* , s. 27.] By 29 & 30 Vict. c. 90, s. 18, a requisition in writing r the hands of any ten inhabitants of a place, shall for the ses of the 18 & 19 Vict. c. 121, s. 27, be deemed to be equiva- o the certificate of the medical officer or medical practitioners in mentioned, and the said section shall be enforced accord-

18 & 19 Vict. c. 121.

Overcrowded Houses.] 18 & 19 Vict. c. 121, s. 29, autho local authority, on certificate of medical officer of health, i if none, of two qualified medical practitioners, that any h overcrowded as to be dangerous or prejudicial to the heal inhabitants, and the inhabitants shall consist of more family, to take proceedings before justices to abate su crowding, "and the justices shall thereupon make such they may think fit;"—and the person permitting such over is liable to a penalty of not exceeding 40s. By 29 & 30 V s. 36, "where two convictions against the provisions of relating to the overcrowding of a house, or the occupat cellar as a separate dwelling place, shall have taken plac the period of three months, whether the persons so convic or were not the same, it shall be lawful for any two ju direct the closing of such premises for such time as they m necessary, and, in the case of cellars occupied as afor empower the nuisance authority to permanently close the such manner as they may deem fit, at their own cost."

Periodical Removal of Manure in Mews, &c.] By 29 & c. 90, s. 53, "where notice has been given by the nuisance rity, or their officer or officers for the periodical removal of or other refuse matters from mews, stables, or other p (whether such notice shall be by public announcement locality or otherwise), and subsequent to such notice the p persons to whom the manure or other refuse matter belon not so remove the same, or shall permit a further accum and shall not continue such periodical removal at such inte the nuisance authority, or their officer or officers, shall di or they shall be liable, without further notice, to a pen twenty shillings per day for every day during which such or other refuse matter shall be permitted to accumulate:—p always, that this section shall not apply to any place wh board of guardians or overseers of the poor are the nu authority."

Justices' Order to admit Local Authority or Person to enter. 18 & 19 Vict. c. 121, s. 11, a justice may require the person the custody of premises where a nuisance exists to *admit th* authority or their officer, which order continues in force un nuisance is abated (29 & 30 Vict. c. 90, s. 31); but, *if no* can be discovered, the justices may authorize the *local* autho enter the premises, as well as the *immediate* removal, destru sale of matters and things removed by local authority, if the of keeping them five days would be prejudicial to health (see 19 Vict. c. 121, s. 18).

Fountains vested in Local Authority—Persons polluting them.] 23 & 24 Vict. c. 77, s. 7, wells, fountains and pumps, provid

se of inhabitants of any place, and not vested in private 18 & 19 Vict.
, are to be vested in the local authority under this act. c. 121.
8 provides a penalty upon persons fouling the water therein.
ts of Proceedings and Works, and their Recovery from Owners, Occupier may deduct from Rent.]—18 & 19 Vict. c. 121, s. 19,
s, "all reasonable costs and expenses from time to time in-
d in making a complaint, or giving notice to or in obtaining
der of justices under this act, or in carrying the same into
under this act, shall be deemed to be money paid for the use
t the request of the person on whom the order is made;—or
order be made on the local authority, or if no order be made,
he nuisance be proved to have existed when the complaint
made or the notice given, then of the person by whose act or
lt the nuisance was caused;—and in case of nuisances caused
e act or default of the owner of premises [*or* the agent of an
t owner, *Blything Union* v. *Warton*, 32 L. J. (N. S.) M. C.
the said premises shall be and continue chargeable with such
and expenses, and also with the amount of any penalties
rred under this act, until the same be fully discharged,—pro-
d that such costs and expenses shall not exceed in the whole
year's rack-rent of the premises, and such costs and expenses
penalties, together with the charges of suing for the same, may
ecovered in any county or superior court, or, if the local
ority think fit, before *any two justices of the peace;* 111—and
said *justices* shall have power to divide such costs, expenses and
lties between the persons by whose act or default the nuisance
s, in such manner as they shall consider reasonable;—and if
ppear to them that a complaint made under this act is frivolous
unfounded, they may order the payment by the local authority
person making the complaint of the costs incurred by the
on against whom the complaint is made, or any part thereof."
. 20 provides the mode of recovering costs and expenses where
local authority is the complaining party. The 11 & 12 Vict.
3 applies (see s. 38), under which there would be not exceeding
e calendar months' imprisonment in default of distress (s. 22,
L I. p. 199). By 29 & 30 Vict. c. 90, s. 34, "that it shall be
rful for the nuisance authority, at their discretion, to require the
ment of any costs or expenses which the owner of any premises
y be liable to pay under the said Nuisances Removal Acts or
s act, either from the owner or from any person who then or at
y time thereafter occupies such premises,—and such owner or
upier shall be liable to pay the same,—and the same shall be

111 The recovery before justices of the peace seems, however, to be the
tter remedy, as they can apportion the costs, &c., and also where more
an one person is liable.

18 & 19 Vict. c. 121.

recovered in manner authorized by the Nuisances Removal
and the owner shall allow such occupier to deduct the s
money which he so pays out of the rent from time to time be
due in respect of the said premises, as if the same had been a
paid to such owner as part of such rent:—provided alway
no such occupier shall be required to pay any further sum th
amount of rent for the time being due from him, or whicl
such demand of such costs or expenses from such occupi
after notice not to pay his landlord any rent without first ded
the amount of such costs or expenses, becomes payable b
occupier, unless he refuse, on application being made to h
that purpose by or on behalf of the nuisance authority, t
disclose the amount of his rent and the name and address
person to whom such rent is payable; but the burden of
that the sum demanded from any such occupier is greater
the rent due by him at the time of such notice, or whic
since accrued, shall lie upon such occupier;—provided als
nothing herein contained shall be taken to affect any co
made or to be made between any owner or occupier of any l
building or other property whereof it is or may be agree
the occupier shall pay or discharge all rates, dues and su
money payable in respect of such house, building or other
perty, or to affect any contract whatsoever between landl
tenant."

Services of Notices, Summonses and Orders—Joinder of Par Designation.] Notices, summonses and orders may be serve delivering the same to or at the residence of the persons addr —and where addressed to the owner or occupier, they may be served by delivering the same or a true copy to some p on the premises,—or if there be no person on the premises fixing the same on some conspicuous part of the premises,— the person reside more than five miles from the office of th spector, then by a registered letter through the post (18 & 19 c. 121, s. 31). Several persons may be proceeded against in r of one nuisance caused by their joint act or default, and incl in one complaint, summons and order (s. 33). One or more owners or occupiers may be proceeded against alone (s. 34). any proceeding the owner may be designated as the "owner "occupier" of the premises, without name or further descrip (s. 35).

Appeal.] Appeal lies against justices' order of prohibition mentioned in 18 & 19 Vict. c. 121, s. 12;—also against justices' order for structural works (s. 16); and also any convict for carrying on noxious trades (s. 27);—which appeal must made to the quarter sessions, held next after the making of order, the party giving notice to the local authority within fourte

of the order and entering into recognizance within two days of g such notice to try appeal, &c.; and see 12 & 13 Vict. c. 45, *nte*, p. 252, *Note* 5, as to notice before the sessions). 18 & 19 Vict. c. 121.

II. *Diseases Prevention.*

al Authority.] By 23 & 24 Vict. c. 77, s. 11, guardians and eers of the poor are to be the local authorities for executing e Diseases Prevention Act, 1855," 18 & 19 Vict. c. 116. By 30 Vict. c. 90, s. 40, "where in any place two or more boards ardians or local authorities have jurisdiction, the privy council the 'Local Government Board,' 34 & 35 Vict. c. 70] may by order made under 'The Diseases Prevention Act, 1855,' autho- or require such boards to act together for the purposes of that and may prescribe the mode of such joint action and of de- ing the costs thereof." 18 & 19 Vict. c. 116.

xers of Local Authority.] Power of entry for superintending execution of regulations issued by the [privy council, 21 & 22 . c. 97; 22 & 23 Vict. c. 3] (18 & 19 Vict. c. 116, ss. 4, 8); direct prosecutions for violating the same (s. 9); may provide iages for conveyance of infected persons (23 & 24 Vict. c. 77, 2), and may procure sanitary reports and pay for the same (4).

Medical Expenses for Services on board Vessels.] By 18 & 19 Vict. 16, s. 12, "disputes in respect of charges, not exceeding fifty nds, of medical men for services rendered on board any vessel, equired by the [Local Government Board, 34 & 35 Vict. c. 70], be determined summarily at the place where the dispute arises, n case of seamen's wages not exceeding fifty pounds, according the provisions of the law in that behalf for the time being in e [i. e. before any two justices of the peace (17 & 18 Vict. c. 104, 38), or any stipendiary magistrate, sect. 519, title "*Seamen*,"];—and any *justice* before whom complaint is made, shall de- mine summarily as to the amount which is reasonable, according the accustomed rate of charge within the place for attendance patients of the like class or condition as those in respect of whom charge is made."

OATHS.

I. *Justices' Power to administer Oaths.*
II. *Declaration in lieu of Oath.*
III. *Promissory Oaths Act*, 1868.

I. *Justices' Power to administer Oaths.*

There does not appear, upon an examination of many legal rities, to have been any *general* power given *by statute* to a ju the peace to administer an oath or take an affidavit, previou passing of "The Declaration Act of 1835," 5 & 6 Will. noticed *infra*, although it was considered, that in all cases magistrate has power to hear evidence, he has incidentally to administer an oath to the party who gives it (see Vol. I. That statute, by sect. 13 (see p. 1516), prohibits justices fr ministering oaths touching matters whereof they have no juri by statute, excepting in the cases herein provided for; but p given them to take affidavits in many cases by subsequent in proceedings not before them, viz. (amongst others):—

1. To be used in any matter in bankruptcy under the English ruptcy Acts Rule No. 157 of 1st January, 1870, made p to 32 & 33 Vict. c. 71, s. 78):
2. In proof of debts under the Irish Bankruptcy Act, 20 & c. 60, s. 366, and in backing search warrants for effects of rupts (Id. s. 73); but no fees to be taken or received for a (Id. s. 368):
3. In proof of debts under the Scotch Sequestration Act (19 & c. 79, s. 22):
4. Any affidavit to be used in a county court (9 & 10 Vict. c. 95 19 & 20 Vict. c. 108, s. 58):
5. Of the service of process from the Vice-Warden's Court of the naries of Cornwall and Devon (18 & 19 Vict. c. 32, s. 8):
6. Affidavits required by the laws of a foreign country to give to instruments in writing (5 & 6 Will. 4, c. 62, s. 13, *post*, p.
7. Oaths administered according to the law and practice of Scot the ratification of deeds by married women, exempted from Will. 4, c. 62, by 6 & 7 Will. 4, c. 43 [saved by Promissory Act, 1868, 31 & 32 Vict. c. 72, s. 14, sub-s. 11):
8. In proof of compliance with Commons' Standing Orders of ment before examiner of petitions and committee on priv (Orders 77, 139. See proviso to sect. 13, p. 1516):
9. Of unstamped promissory notes issued by banks (9 Geo. 4 s. 7; see *Reg.* v. *Greenland*, 36 L. J. (N. S.) M. C. 37; 15 L N. S. 589):
10. Oaths of allegiance under Naturalization Acts, 1870 (under Secretary's Regulations, *ante*, p. 1322).
11. Made for the purposes of the Stamp and Stamp Duties Man Acts, 1870 (33 & 34 Vict. cc. 97, 98, s. 27).

stices also have a general power to administer an oath (or an ation where necessary) to witnesses in summary proceedings n charges of indictable offences, in which they have jurisdic- is will be seen from the following references to the statutes:—

mary Proceedings.] Oath or affirmation substantiating information omplaint, and granting a warrant (11 & 12 Vict. c. 43, s. 2, Vol. I. 138, 139, in addition to the power given by the particular statute receiving an information, &c. Oath or affirmation on granting sum- s or warrant for a witness (Id. s. 7, Id. p. 161);—and by sect. 15, "the justice before whom any witness shall appear for the pur- of being examined has full power and authority to administer to the usual oath or affirmation."

s of Indictable Offences.] Oath or affirmation on receiving the rmation for the purpose of granting a warrant (11 & 12 Vict. c. 42, , *ante*, p. 881); of identity of person indicted (s. 3, *ante*, p. 911); n backing a warrant granted in another jurisdiction (s. 11, *ante*, p.);—oath or affirmation on granting a summons or warrant for a ness (s. 16, *ante*, p. 939);—and oath or affirmation on taking the ositions of witness (s. 17, *ante*, p. 945.)

ty.] "The Law of Evidence Amendment Act," 14 & 15 Vict. 9, s. 16, enacts,—"Every court, judge, *justice*, officer, commissioner, itrator, or other person, now or hereafter having by law or by con- t of parties authority to hear, receive and examine evidence, is em- wered to administer an oath to all such witnesses as are legally called ore them respectively."

s tendered as Bail for a Party.] See Vol. I. p. 159, *Note* 4, and *ante* 978.

ation or Declaration of a Quaker or Moravian.] 9 Geo. 4, c. 32, s. 1; 4 Will. 4, c. 49, s. 1; Form, Vol. I. p. 87.

ation for those who formerly were Quakers or Moravians.] 1 & 2 Vict. 77; Form, Vol. I. pp. 87, 88.

ation of Separatists.] 3 & 4 Will. 4, c. 82, s. 1; Form, Vol I. 88.

ations to other Persons.] 24 & 25 Vict. c. 66; 17 & 18 Vict. c. 125, 20, and 32 & 33 Vict. c. 68; Vol. I. pp. 87, 88.

Interpreter for a Foreign Witness, or a Deaf and Dumb Witness.] Form, l. I. p. 89.

Scotch Witness.] Form, Vol. I. p. 86.

Chinese Witness.] Form, Vol. I. p. 88.

II. *Declaration in lieu of Oath.*

he 5 & 6 Will. 4, c. 62, does not interfere with the oaths to be n in courts of justice or before justices of the peace (see s. 7, proviso to s. 13, *infra*), but comprises various provisions as to larations in relation to the revenue departments (ss. 2, 3, 4, 5), oath of allegiance (s. 6), declarations at the universities or other l bodies (s. 8), or by churchwardens and sidesmen (s. 9), or by stees of turnpike trusts (s. 10), or on taking out a patent (s. 11),

5 & 6 Will. 4, c. 62.

5 & 6 Will. 4, c. 62.

or by pawnbrokers (s. 12), on the transfer of stock at the B England (s. 14), and in suits on behalf of her Majesty Majesty's territories, &c. (17),—and the following provision tive to the duties of justices of the peace.

Oath prohibited.] Sect. 13 recites, that "a practice has pre of administering and receiving oaths and affidavits volun taken and made in matters not the subject of any judicial in nor in anywise pending or at issue before the justice of the pe other person by whom such oaths or affidavits have been nistered or received;" and that "doubts have arisen wheth not such proceeding is illegal;" "for the more effectual pression of such practice and removing such doubts," ena "that, from and after the commencement of this act, *it sha be lawful for any justice* of the peace or other person *to admi* or cause or allow to be administered, or to receive, or cau allow to be received, *any oath, affidavit or solemn affirmation* to ing any matter or thing whereof such justice or other p hath not jurisdiction or cognizance by some statute in for the time being."114

Exception of Foreign Countries.] "Provided always, that not herein contained shall be construed to extend to any oath, davit or solemn affirmation before any justice in any matte thing touching the preservation of the peace,—or the prosecut trial, or punishment of offences,—or touching any proceed before either of the houses of parliament [Case 8, *ante*, p. 15 or any committee thereof respectively, nor to any oath, davit, or affirmation which may be required by the laws of *foreign* country 115 *to give validity to instruments* in wri designed to be used in such foreign countries respectively."

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114 A justice who had sworn witnesses in a matter before the Bis of Exeter as to the conduct of two clergymen, was held to have brou himself within this enactment. *Reg.* v. *Nott*, 1 Car. & M. 288.

115 The act is somewhat loosely drawn, but the correct construction the words "foreign country" in this section (13), taken in conjunct with sect. 15 (which applies to actions and suits in our colonies, exc Victoria, 22 & 23 Vict. c. 12), would appear to be all countries and pla abroad, whether or not they are part of her Majesty's dominions. respects such foreign countries, if the justice satisfies himself by do ments or otherwise that the laws of such places require an oath or affida "to give validity to instruments in writing," he may safely receive t affidavit and administer the oath in such cases, and also, if necessary, a his seal; but it is conceived, that in other cases of documents intend for such foreign places, not being for the purpose of "giving validity instruments," viz. in proof of debts or accounts and other matters, e where the laws of such places require an affidavit (of which it is a there are many, passed before the 5 & 6 Will. 4, c. 62, and which must b considered as virtually repealed by that act), an affidavit cannot b received, but a declaration must be taken under the general enactment either sects, 16 or 18, p. 1417, as the case may require.

take Declarations instead of Affidavits in relation to Actions tain Colonies.] Section 15, after reciting 5 Geo. 2, c. 7, and 5 & 6 Will. 4, c. 62. so. 3, c. 15 (which related to the recovery of debts in the tations and Colonies of America and the Colony of New h Wales, by persons resident in Great Britain, and authorized nayor or other chief magistrate of boroughs to take affidavits ich cases), and that "it is expedient that in future a declan should be substituted in lieu of the affidavit on oath orized and required by the said recited acts," enacts,—that any action or suit then depending—or thereafter to be brought tended to be brought—in any court of law or equity within of the territories, plantations, colonies or dependencies abroad, within and part of his Majesty's dominions, for or relating ny debt or account wherein any person residing in Great in and Ireland shall be a party, or for or relating to any s, tenements or hereditaments, or other property, situate, lying being in the said places respectively," the plaintiff or defen-, and also any witness, may verify or prove any matter or g relating thereto by solemn declaration or declarations in ing in the form in the schedule to the act, made "before any ice of the peace, notary public or other officer, now by law orized to administer an oath, and certified and transmitted er the signature and seal of any such justice, notary public admitted and practising or other officer;—which declaration, every declaration relative to such matter or thing as afore-, in any foreign kingdom or state, or to the voyage of any or vessel, every such justice, &c. shall be, and he is hereby orized and empowered to administer or receive;—and every aration so made, certified and transmitted, shall, in all such ons and suits, be allowed to be of the same force and effect, as he person or persons making the same had appeared and sworn ffirmed the matters contained in such declaration *vivâ voce* in court, or upon a commission issued for the examination of esses or of any party in any such action or suit respec-ly: 116—provided that in every such declaration there shall be essed the addition of the party making such declaration, and particular place of his or her abode." [By 22 & 23 Vict. c. 12, the above sect. 15 and sect. 17, and sects. 1, 2, 3 of the 54 Geo. 3, 5. are repealed so far as they apply to the colony of *Victoria.* tices may, therefore, take a declaration in these cases under

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16 If the matter in question is not relating to a suit or action in the nies, and, therefore, not provided for by this section, sect. 18, *supra*, l apply. The 19 & 20 Vict. c. 113, which provides the mode of taking dence in her Majesty's dominions in relation to civil and commercial tters pending before tribunals in a *foreign country*, would seem not to ect this enactment, nor does the 22 Vict. c. 20.

[illegible] as the case may require, or an [illegible]

[illegible] *Execution of Wills or Deeds.*] By [illegible] the execution of any will or codi[illegible] or instrument in writing, or any other competent pers[illegible] [illegible] the signing, sealing, publication, or de[illegible] [illegible] by such declaration in writing.

[illegible] *Matters.*] Sect. 18, reciti[illegible] [illegible] many cases, *not herein* [illegible] instruments, or allega[illegible] [illegible] deeds, *or other* [illegible] and may be lawful for any justice [illegible] officer now by law autho[illegible] [illegible] and receive the declaration [illegible] making the same before him in the [illegible] annexed.117—and if any declara[illegible]

[illegible] This section seemingly authorizes any declaration being [illegible] [illegible] which he may think it "neces[illegible] [illegible] written instruments, or alle[illegible] [illegible] In *Reg.* v. *Baynes*, 1 Car. & Kir. 65, Er[illegible] [illegible] this section is not confined to the cas[illegible] [illegible] which might perhaps mean matters *ejusdem* [illegible] generally. The later decision [illegible] 4 F. & F. 42, that the preamb[illegible] [illegible] overrides this. The general opin[illegible] [illegible] of sect. 18 is controlled and [illegible] why should the legislature have ta[illegible] [illegible] to declare what declarations may be [illegible] and others should have power to ta[illegible] This subject has been much discussed at the [illegible] both in parliament and in the legal journ[illegible] [illegible] reference to the scandalous charges brought [illegible] a high official appointment, whi[illegible] [illegible] a voluntary declaration made before a metropolitan [illegible] In the course of that discussion the following pub[illegible] [illegible] the practice referred to in which had been adhered [illegible] the Mansion House, London, for thirty years, met with unqu[illegible] [illegible]

[illegible] *Subject of Affidavit or Declaration.*]—The subject-matter an[illegible] facts set forth in the affidavit or declaration will be examined, an[illegible] such affidavit as is authorized by law, or such declaration as appear[illegible] 'necessary and proper,' will be taken." To this regulation there [illegible] [illegible] "The Statutory Declaration Act,' 5 & 6 Will. 4, [illegible] the taking of a declaration in relation to actions in [illegible] except Victoria, . . . ; and of execution of wills [illegible] and also by sect. 18, where 'it may be necessary and pro[illegible] many cases, not herein specified, to require confirmation of written [illegible] ments or allegations, or proof of debts, or of the execution of de[illegible] other matters.' Declarations will, therefore, not be received [illegible] immoral practices, or involving criminal charges or supposed [illegible] charges, affecting the declarant or other persons, whether or not the [illegible] the subject of proceedings commenced, pending, or determined, [illegible] any other improper case. Of course, an affidavit of the same [illegible] cannot be taken."

5 & 6 Will. 4, c. 62.

e shall be false or untrue in any material particular the on wilfully making such false declaration shall be deemed ty of a misdemeanor." See sect. 21, p. 1520, and Offence . *ante*, 1064.]

ee for Declaration.] The same as for an oath (s. 19).

orm of Declaration.] Sect. 20 provides, that in all the cases declaration, unless otherwise directed in revenue cases, &c., be in the form prescribed in the schedule.118 The following he form of it, with the addition of the declarant's abode and lity required by the act only in case of a declaration for the onies (see s. 15), and the title of the act and jurat.

I, A. B., of the parish of ——, in the [*county*] of ——, do solemnly and sincerely declare, that

[*Here insert the facts required*, 119, *or say*, declare as follows, that is to say; *and then number the paragraphs.*]

And I make this solemn declaration conscientiously believing the same to be true, and by virtue of the provision of an act made and passed in the sixth year of the reign of his late Majesty King William the Fourth, intituled, "An Act to repeal an Act of the present Session of Parliament, intituled, 'An Act for the more effectual

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mongst other improper declarations frequently attempted to be passed under various pretexts are those which, or the documents set out in or exed to them, contain puffs of different trades, or articles of comrce, or give the nature of the ingredients of articles of other traders, which declarations are intended to be used to the advantage of the larant or the disadvantage of others in our colonies or in a foreign ntry, where the documents, being thereby clothed with a sort of legal judicial sanction, are readily received as authentic and the statements them relied upon.

118 *Stamp Duty on Affidavits and Declarations.*]—By "The Stamp Act, 70," 33 & 34 Vict. c. 97 (schedule "Affidavit") a duty of 2*s.* 6*d.* is payle on an "Affidavit or Statutory Declaration under the provisions of & 6 Will. 4, c. 62," from which there are these "Exemptions," viz.:—

"(1.) Affidavit made for the immediate purpose of being filed, read, or used in any court, or before any judge, master, or officer of any court.

"(2.) Affidavit or declaration made upon a requisition of the commissioners of any public board of revenue, or any of the officers acting under them, or required by law, and made before any justices of the peace.

"(3.) Affidavit or declaration which may be required at the Bank of England or the Bank of Ireland to prove the death of any proprietor of any stock transferable there, or to identify the person of any such proprietor, or to remove any other impediment to the transfer of any such stock.

"(4.) Affidavit or declaration relating to the loss, mutilation, or defacement of any bank note or bank post bill.

"(5.) Declaration required to be made pursuant to any act relating to marriages in order to a marriage without licence."

Justices, however, cannot refuse to take a declaration because it is not a revenue stamp.

119 For a variety of forms of statements of facts for declarations, as identity, authentication of a signature, correctness of copy of a parish register, of a birth, &c., of execution of a power of attorney, &c., as well as of mayors, and forms of jurats, where the declarant is a marksman, blind, &c., *vide* Oke's "*Formulist*," 6th ed. pp. 867—873.

5 & 6 Will. 4, c. 62.

Abolition of Oaths and Affirmations taken and made in various Departments of the State, and to substitute Declarations in lieu thereof, for the more entire Suppression of voluntary and extrajudicial Oaths and Affidavits, and to make other Provisions for the abolition of unnecessary Oaths." A. B.

Made and subscribed at ——, in the [*county*] of ——, this —— day of ——, in the year of our Lord 188—, before me, one of her Majesty's justices in and for the said [*county*] of ——. J. S.

Persons making false Declarations.] Besides the enactment at the close of sect. 18, *supra*, sect. 21 enacts,—"That in any case where a declaration is substituted for an oath under the authority of this act, or by virtue of any power or authority hereby given, or is directed and authorized to be made and subscribed under the authority of this act, or by virtue of any power hereby given, any person who shall wilfully and corruptly make and subscribe any such declaration, knowing the same to be untrue in any material particular, shall be deemed guilty of a misdemeanor." [See Offence 159, *ante*, p. 1064.]

Place where Affidavit or Declaration is taken.] The taking of an affidavit or declaration, being an act of voluntary jurisdiction, may, like recognizances (for which see *ante*, p. 11), be taken out of the jurisdiction of the justice (Barclay's Law of Scotland, p. 15), except where the act relating to the affidavit or declaration provides otherwise.

III. *Promissory Oaths Act*, 1868.

31 & 32 Vict. c. 72.

Oaths abolished in certain Cases.] By "The Promissory Oaths Act, 1868," 31 & 32 Vict. c. 72, which provides new forms for the oaths of allegiance, and official and judicial oaths, including that to be taken by justices (noticed in the "Introduction" to this work in Vol. I.), abolishes certain oaths, amongst which are those administered to constables, and substitutes a declaration in lieu thereof. Sect. 12 of that act enacts, "The following regulations shall be enacted with respect to the substitution of declarations for oaths; (that is to say)—

[1, 2, 3 sub-sects. *which do not relate to matters in this work.*]

"4. Where in any case not otherwise provided for by this act or included within the saving clauses thereof an oath is required to be taken by any person on or as a condition of his accepting any employment or office, a declaration shall be substituted for such oath to the like effect in all respects as such oath:

"5. The making a declaration in pursuance of this section instead of oath, shall in all respects have the same effect as the taking the oath for which such declaration is substituted would have had if this act had not passed."

sect. 13, "If any person required by this act to make a ation instead of an oath declines or neglects to make such de- on, he shall be subject to the same penalties and disabilities, as he would have been subjected to for declining or neglecting e the oath for which the declaration provided by this act is uted." 31 & 32 Vict. c. 72.

g Clauses.] By sect. 14, "Nothing in this act contained shall

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Any oath required to be taken in the army, the marines, the militia, the yeomanry, or the volunteers:

The oath taken by aliens on being naturalized, with this exception, that the form of the oath of allegiance prescribed by this act shall be substituted for the form of the oath of allegiance required so to be taken by aliens previously to the passing of this act:

The eighteenth section of 'The Merchant Shipping Act, 1854,' or any provision to be substituted therefor, whereby certain persons claiming to be owners of British ships are required to take the oath of allegiance, with this exception, that the form of the oath of allegiance as prescribed by this act shall be substituted for the form of the oath of allegiance contained in the said Merchant Shipping Act, 1854:

Any power of substituting a declaration for an oath vested in the commissioners of her Majesty's treasury by the act of the session of the fifth and sixth years of the reign of his late Majesty King William the Fourth, chapter sixty-two:

). Any oath required or authorized by act of parliament to be taken or made for the purpose of attesting any fact or verifying any account or document:

1. Any oath or declaration taken in judicial ratification by married women, as the same by the law and practice of Scotland have been in use to be taken:

2. Any oath required to be taken by any juror, witness, or other person in pursuance of any act of Parliament or custom as preliminary to or in the course of any civil, military, criminal or other trial, inquest, or proceedings of a judicial nature, including any arbitration, or as preliminary to or in the course of any proceedings before a committee of either house of Parliament, or before any commissioner or other special tribunal appointed by the crown."

' sect. 15, "Where a declaration has been substituted for an under this act, any person, guild, body corporate, or society h before the passing of this act had power to alter such oath, substitute another oath in its place, may exercise a like

31 & 32 Vict. c. 72.

power with regard to such declaration." By sect. 16, "Where previously to the passing of this act the taking of any oath formed a condition precedent or subsequent to the attainment by any person of any office, privilege, exemption, or other benefit, and such person is by this act prevented from fulfilling such condition, he shall nevertheless, on complying with the other conditions, if any, attached to the attainment of such office, privilege, exemption, or other benefit, be entitled thereto in the same manner as if the condition relating to such oath, and any directions as to the certificate or registration of the taking of such oath, or otherwise, had been fulfilled or performed."

[*See also the* 34 & 35 *Vict. c.* 48, *repealing a great number of statutes concerning oaths.*]

OBSCENE BOOKS.

20 & 21 Vict. c. 83.

Search Warrant for.] By 20 & 21 Vict. c. 83, s. 1, any metropolitan police magistrate, or stipendiary magistrate, or any two justices of the peace, upon complaint made before him or them upon oath that the complainant had reason to believe and does believe, that any obscene books, papers, writings, prints, pictures, drawings, or other representations, are kept in any house, shop, room or other place within the limits of the jurisdiction of any such magistrate or justices, for the purpose of sale or distribution, exhibition for purposes of gain, lending upon hire, or being otherwise published for purposes of gain (which complainant shall also state upon oath that one or more articles of a like character have been sold, distributed, exhibited, lent or otherwise published as aforesaid, at or in connection with such place, so as to satisfy such magistrate or justices that the belief of the said complainant is well founded), and upon such magistrate or justices being also satisfied that any of such articles so kept for any of the purposes aforesaid are of such a character and description that the publication of them would be a misdemeanor, and proper to be prosecuted as such, 120—may give authority by special warrant to any

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120 See the case of *Reg.* v. *Hicklin and another*, 37 L. J. (N. S.) M. C. 89, hereon. In that case a society of persons called "The Protestant Electoral Union"—(whose objects were stated to be, amongst others, "to protest against those teachings and practices of the Romanist and Puseyite systems which are un-English, immoral and blasphemous:" to "maintain the Protestantism of the Bible and the liberty of England," and "to promote the return to Parliament of men who will assist them in these objects; and particularly will expose and defeat the deep-laid machinations of the Jesuits, and resist grants of public money for Romish purposes")—exposed for sale at their office a pamphlet entitled, "The confessional unmasked; showing the depravity of the Romish priesthood, the iniquity of the confessional, and the questions put to females in confession." This pamphlet consisted of extracts from the works of theologians on the

able or police officer into such house, &c., with such assist- as may be necessary, to enter in the daytime, and, if neces- to use force, by breaking open doors or otherwise, and to h for and seize all such books, &c., found in such house, &c., rry all the articles so seized before the magistrate or justices g the said warrant, or some other magistrate or justices sing the same jurisdiction;—and such magistrates or justices hereupon to issue a summons calling upon the occupier of the e, &c. so entered to appear within seven days before such strate or two justices in petty sessions for the district, to show why the articles so seized should not be destroyed;—and if occupier, or some other person claiming to be the owner of aid article, shall not appear within the time aforesaid, or shall ar, and such magistrate or justices shall be satisfied that such les, or any of them, are of the character stated in the warrant, that such or any of them have been kept for any of the oses aforesaid, the said magistrate or justices are to order the les so seized, except such of them as he or they may consider ssary to be preserved as evidence in some further proceeding, to estroyed at the expiration of the time hereinafter allowed for ing an appeal, unless notice of appeal as hereinafter mentioned iven,—and such articles shall be in the meantime impounded; d if such magistrate or justices shall be satisfied that the les seized are *not* of the character stated in the warrant, or not been kept for any of the purposes aforesaid, he or they l forthwith direct them to be restored to the occupier of the se, &c. in which they were seized. [Forms of Complaint, rch Warrant and Orders, pp. 873—875, Oke's "*Formulist*," ed.]

20 & 21 Vict. c. 83.

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rine and discipline of the Church of Rome, and particularly on the tice of auricular confession. On the side of the page were printed ages in the original Latin, correctly extracted from the works of these ers, and opposite each extract was placed a free translation of it into glish. The pamphlet also contained a preface and notes, and comments lemnatory of the tenets and principles of the authors of the works a which the extracts were made. About one-half of the pamphlet ted to casuistical and controversial questions which were not obscene, the remainder of the pamphlet was obscene, relating to impure and ty acts, words and ideas. A member of the society kept and sold these phlets with the purpose of promoting the objects of the society, and sing what he deemed to be errors of the Church of Rome. Two gistrates, purporting to act under the above-mentioned statute, ordered umber of these pamphlets while in his possession to be seized and deyed:—Held, that notwithstanding the object of the defendant was not ajure public morals, but to attack the religion and practice of the Roman holic Church, this did not justify his act nor prevent it from being a demeanor proper to be prosecuted, as the inevitable effect of the pubation must be to injure public morality; and although he might have l another object in view, he must be taken to have intended what was natural consequence of his act, and had therefore been guilty of an nce within the meaning of the statute.

20 & 21 Vict. c. 83.

Appeal.] By sect. 4, an appeal is given; it enacts,—that any person aggrieved by any act or determination of such magistrate or justices may appeal to the next general or quarter sessions for the county, &c. in and for which such magistrate or justices have so acted, giving to the magistrate or justices notice in writing of such appeal, and of the grounds thereof, within seven days after such act or determination, and before the next general or quarter sessions [see 12 & 13 Vict. c. 45, s. 1, *ante*, p. 252, *Note* 5, as to length of notice before the sessions], and entering within such seven days into a recognizance, with sufficient surety, before a justice of the peace for the county, &c. personally to appear and prosecute such appeal, and to abide the order of and pay such costs as shall be awarded by the quarter sessions,—and the general or quarter sessions shall hear and determine the matter of such appeal, and shall make such order therein as shall to the said court seem meet; and such court, upon hearing and finally determining such appeal, shall and may, according to their discretion, award such costs to the parties appealing or appealed against as they shall think proper; and if such appeal be dismissed or decided against the appellant, or be not prosecuted, such court may order the articles seized forthwith to be destroyed;—provided always, that it shall not be lawful for the appellant on the hearing of any such appeal to go into or give evidence of any other grounds of appeal against any such order, act or determination than those set forth in such notice of appeal.

PARLIAMENT. See "*Elections* (*Parliamentary*)."

PASSPORTS.

By the 4th Regulation of the Foreign Office, dated 16th July, 1870, as to the issue of passports, it is provided,—"4. Passports are granted to all persons either known to the secretary of state or recommended to him by some person who is known to him; or upon the application of any banking firm established in London or in any part of the United Kingdom; or upon the production of a certificate of identity signed by any mayor, magistrate, justice of the peace, minister of religion, physician, surgeon, solicitor or notary resident in the United Kingdom." The form of recommendation is as follows:—

[*Name of place and day of the month.*]

The undersigned, Mayor of ——,
Chief Magistrate of ——,
Magistrate for ——,
Justice of Peace for ——,

hereby certifies that A. B. [*christian and surname to be written at full length*] (whose signature in full is written in at foot) is a [naturalized, *if so*] British subject, and requires a passport to enable him to proceed to ——

ravel on the continent], [accompanied by his wife and —— children, heir tutor named C. D. (*christian and surname to be written at length*), uralized, *if so*) British subject, and —— governess, and —— maid ts, and —— man servants, named E. F., &c. (*names at full length*), uralized, *if so*) British subject.]

(Signature of Magistrate) [*Christian name and surname to be written at length.*]

(Signature of Applicant.)

stamp duty on passports is 6*d.* (Stamp Act, 1870, 33 & 34 c. 97, Sched. "Passport.")

PAWNBROKERS.

subject of the liability of pawnbrokers and pawners, as far comes within the limits of summary convictions, is fully d under the head of "*Pawnbrokers,*" *ante*, Vol. I. pp. 650—658. are, however, some special matters appertaining to this head ich it will be well here to refer.

I. *Pawnbrokers' Certificates.*
II. *Other Matters.*

I. *As to Pawnbrokers' Certificates.*

cence not to be granted without a Justice's Certificate.] After the ng of "The Pawnbrokers' Act, 1872" (35 & 36 Vict. c. 93), a ibroker's licence is not to be granted to any person except on production and in pursuance of the authority of a certificate ted under the act; save, that it is not to be necessary for any on being at the commencement of the act a licensed pawner, or for his executors, administrators, assigns or successors tain such a certificate (sect. 39). 35 & 36 Vict. c. 93.

ho to grant Certificates.] Certificates under the act are to be ted (as regards England) in the metropolitan police district by agistrate sitting in any police court in the metropolis having sdiction in the district where the application is made, and in place within the jurisdiction of a stipendiary magistrate, by magistrate; and in other places by the justices of the petty ional division assembled at petty sessions specially convened that purpose (sect. 40).

orm of Duration of Certificate.] A certificate under the act is e in the form given in the 6th schedule of the act, or to the like ct. and is to be in force for one year from its date (sect. 41).

Form of Certificate of Justices.

[*or* we] [*here insert description of the magistrate or justices*] do authorize grant to A. B. of ——, in the county of —— of a licence to carry on business of a pawnbroker within the township of —— [*or* parish of —, *or other place, as the case may be*].

Witness my hand [*or* our hands], this —— day of ——, 18—.

35 & 36 Vict. c. 93.

Notice of first Application for a Certificate.] A person in to apply for the first time for a certificate under the act is ceed as follows:—

(1.) Twenty-one days at least before the application he is notice by registered letter sent by post of his inte one of the overseers of the poor of the parish or p which he intends to carry on business, and to the s tendent of police of the district, and in the notice h set forth his name and address:

(2.) Within twenty-eight days before the application h cause a like notice to be affixed and maintained betw o'clock in the morning and five o'clock in the aftern two consecutive Sundays, on the principal door, or the doors, of the church or chapel of the parish or pl if there is none, then on some other public and consp place in the parish or place (sect. 42).

Grounds of Refusal of Certificate.] An application for a cate is not to be refused, except on the following grounds or them:—

(1.) That the applicant has failed to produce satisfactory ev of good character:

(2.) That the shop in which he intends to carry on the bu of a pawnbroker, or any adjacent house or place own occupied by him, is frequented by thieves or persons o character:

(3.) That he has not complied with the last preceding s (sect. 43).

A right of appeal against a refusal to grant a certificate is by sect. 52 (see the conditions of appealing set out *ante*, *Note* p. 653).

II. *Other Matters.*

Compensation for Depreciation of Pledge.] If a person ent and offering to redeem a pledge shows to the satisfaction of a of summary jurisdiction that the pledge has become or has rendered of less value than it was at the time of the pawning the by or through the default, neglect, or wilful misbehaviour of pawnbroker, the court may, if it thinks fit, award a reas satisfaction to the owner of the pledge in respect of the dam and the amount awarded is to be deducted from the amount able to the pawnbroker, or is to be paid by the pawnbroker, as case requires) in such manner as the court directs (35 & 36 V c. 93, s. 28).

Search Warrant for Articles unlawfully pawned.] If the ow of any linen, or apparel, or unfinished goods or materials intru to any person as aforesaid [*as mentioned in sect.* 35], and unla

ed with a pawnbroker, or the owner of any other article 35 & 36 Vic
fully pawned with a pawnbroker (the last-mentioned owner c. 93.
on oath satisfied the justice that his goods have been un-
ly obtained or taken from him), makes out on oath before a
that there is good cause to suspect that a pawnbroker has
in pawn the linen, apparel, goods, materials or article afore-
without the privity or authority of the owner, and makes
to the satisfaction of the justice probable grounds for such
on, the justice may issue his warrant for searching within
urs of business the shop of the pawnbroker.

he pawnbroker, on request by a constable authorized by a
t, refuses to open the shop and permit it to be searched, a
ble may break it open within the hours of business, and
as he thinks fit therein for the linen, apparel, goods,
als or articles aforesaid, doing no wilful damage; and if any
roker or other person opposes or hinders the search, he is to
ty of an offence against the act.

n the search, any linen, apparel, goods, materials or articles
aid is or are found, and the property of the owner thereof is
out to the satisfaction of a court of summary jurisdiction,
ourt is to cause the same to be forthwith restored to the owner
f (sect. 36). [For forms, see Oke's "*Formulist*," 6th ed.
1—319.]

PEDLARS.

"The Pedlars Act, 1871," 34 & 35 Vict. c. 96, which repealed 34 & 35 Vict
ct of 1870, 33 & 34 Vict. c. 72, and came into operation on c. 96.
t January, 1872, no person is to act as a pedlar without the
cate from the chief officer of the police of the district in
such person resides, as in the act mentioned, under a penalty
4; see Offences 1, 2, Vol. I. p. 658); but this is not applic-
to commercial travellers and others (sect. 23); 121 nor is the

Definition of "Pedlar"—To whom the Act does not extend.] By sect. 3
alia), "the term 'pedlar' means any hawker, pedlar, petty chap-
tinker, caster of metals, mender of chairs, or other person who,
ut any horse or other beast bearing or drawing burden, travels and
on foot and goes from town to town or to other men's houses,
ing to sell or exposing for sale any goods, wares, or merchandize, or
ring orders for goods, wares, or merchandize immediately to be
red, or selling or offering for sale his skill in handicraft."

sect. 23, "Nothing in this act shall render it necessary for a certifi-
o be obtained by the following persons as such; (that is to say,)—

Commercial travellers or other persons selling or seeking orders for goods, wares, or merchandize to or from persons who are dealers therein and who buy to sell again, or selling or seeking orders for books as agents authorized in writing by the publishers of such books:

Sellers of vegetables, fish, fruit, or victuals:

Persons selling or exposing to sale goods, wares, or merchandize in any public mart, market, or fair legally established."

34 & 35 Vict. c. 96.

act to take away or diminish the powers of any local a (sect. 24). The following are its principal provisions :—

Grant of Certificate by Chief Officer of Police.] Sect. following regulations shall be made with respect to the pedlars' certificates :—

1. Subject as in this act mentioned, a pedlar's certificate granted to any person by the chief officer of polic police district 122 in which the person applying f tificate has, during one month previous to such app resided, on such officer being satisfied that the appl above seventeen years of age, is a person of good ch and in good faith intends to carry on the trade of a p
2. An application for a pedlar's certificate shall be in t specified in schedule two to this act, or as near th circumstances admit :
3. There shall be paid for a pedlar's certificate previousl delivery thereof to the applicant a fee of five shilling
4. A pedlar's certificate shall be in the form specified in s two to this act, or as near thereto as circumstances ad
5. A pedlar's certificate shall remain in force for one yea the date of the issue thereof, and no longer :
6. On the delivery up of the old certificate, or on sufficie dence being produced to the satisfaction of the chief of police that the old certificate has been lost, that may, either at the expiration of the current year, or the currency of any year, grant a new certificate in th manner as upon a first application for a pedlar's cert In Great Britain one of her Majesty's principal secret state . . . . may from time to time provide for the exp

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122 *Definition of "Police District" and "Chief Officer of Police."* sect. 3 (*inter alia*), "the term 'police district' means any of the d mentioned in schedule one to this act, and the term 'chief off police' with reference to any police district means the officer me in relation to that district in the said schedule, and such schedul the notes thereto shall have effect as if it were enacted in this sec The purport of this schedule referred to is,—that the chief officer of in the city of London, and the liberties thereof, exclusive of South is the commissioner of police of the city; in the metropolitan district, the commissioner of police of the metropolis; and in any co any riding, parts, division, or liberty of a county, any borough, or maintaining a separate police force, the chief constable or head cons or other officer, by whatever name called, having the chief comma the police in the district;—and by a note attached to the schedule, the police under one chief constable shall be deemed to constitu police force" for the the purposes of such schedule.

By sect. 22, "Any act or thing by this act authorized to be don the chief officer of the police may be done by any police officer unde command authorized by him in that behalf, and the term 'chief offic police' in this act includes, in relation to any such act or thing police officer so authorized."

of all pedlars' certificates at the same period of each year, and in doing so shall provide for the apportionment of the fees payable in respect of any such certificate." [The fees are by sect. 21 to be applied in the same manner as penalties, i. e., to treasurer of county, &c., under 11 & 12 Vict. c. 43, s. 51, Vol. I. p. 241.

34 & 35 Vict. c. 96.

ct of Certificate.] Sect. 6. "A pedlar's certificate granted this act shall, during the time for which it continues in authorize the person to whom it is granted to act as a pedlar the police district in which the certificate is taken out. For urpose of 'The Markets and Fairs Clauses Act, 1847' [10 & ct. c. 14], and any act incorporating the same, a certificate this act shall have the same effect, within the district for it is granted, as a hawker's licence, and the term 'licensed er' in the first-mentioned act shall be construed to include a holding such a certificate."

tension of Certificate by Indorsement to other Districts than that which it was granted.] Sect. 7. "Any pedlar who, having ned a pedlar's certificate, desires to act as a pedlar in any police district than that in which the certificate is taken out, while his certificate remains in force, apply to the chief r of police of such other district to indorse his certificate, and officer shall, if satisfied that the applicant is above seventeen s of age, is a person of good character, and in good faith nds to carry on the trade of a pedlar, and on payment by the ar of a fee not exceeding sixpence, indorse such certificate, such indorsed certificate shall, while it continues in force, orize the pedlar to act as a pedlar in such other district, and in all respects the same effect as a certificate granted under act by an officer of such district to a person resident therein ld have. The indorsement shall be in the form specified in dule two to this act, or as near thereto as circumstances it."

egister of Certificates to be kept in each District.] Sect. 8. "There ll be kept in each police district a register of the certificates and he indorsement of certificates granted and made in such district der this act, in such form and with such particulars as may from e to time be directed in Great Britain by one of her Majesty's ncipal secretaries of state. . . . The entries in such register, l any copy of any of such entries, certified by the chief officer police to be a true copy, shall be evidence of the facts stated rein."

Forms of Application to be kept at Chief Police Office.] Sect. 9. Forms of applications for certificates shall be kept at every police ice in every police district, and shall be given gratis to any person plying for the same;—and all applications for certificates shall be

34 & 35 Vict. c. 96.

delivered at the police office of the division or subdivisio police district within which the applicant resides, and cer when duly signed by the chief officer of police, shall be i such office."

Appeal to Justices against Refusal of Certificate by Chief Police.] Sect. 15. "If the chief officer of police refuses to indorse a certificate, the applicant may appeal to a court mary jurisdiction 123 having jurisdiction in the place wh grant or indorsement was refused, in accordance with the fo provisions:

1. The applicant shall, within one week after the refusal, the chief officer of police notice in writing of the appe
2. The appeal shall be heard at the sitting of the cour happens next after the expiration of the said week, court may, on the application of either party, adjo case:
3. The court shall hear and determine the matter of app make such order thereon, with or without costs to eithe as to the court seems just:
4. An appeal under this act to a court of summary jurisdi England . . shall be deemed to be a matter on that court has authority by law to make an order i suance of the Summary Jurisdiction Acts . . . : 1
5. Any certificate, or indorsement of a certificate, granted o in pursuance of an order of the court, shall have th effect as if it had been originally granted or made chief officer of police."

Offences by or in respect to Pedlars.] In addition to the pe for acting as a pedlar without a certificate (s. 4), he his not to or lend his certificate (s. 10), nor is any person to borrow it or to make any false representation with the view to obtain certificate, or forge a certificate or indorsement on it (s. 12): a person exempt from the vagrant law, by reason only that he a certificate under the act, or assists or is accompanying a

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123 *Definition of "Court of Summary Jurisdiction."*] By sect. 1 *alia*), "the term 'court of summary jurisdiction' means and includ justice or justices of the peace, sheriff, or sheriff substitute, metro police magistrate, stipendiary or other magistrate, or officer, by ever name called, to whom jurisdiction is given by the Summary diction Acts or any acts therein referred to, or to proceedings whom the provisions of the Summary Jurisdiction Acts are or m made applicable," which by the same section means, "as to Eng the 11 & 12 Vict. c. 43, and any acts amending the same." See fu as to the constitution of the court (s. 20), in Vol. I. pp. 658—6 350, tit. "*Pedlars.*"

124 The order will apparently be that in K 3 to the 11 & 1 c. 43, referred to in Vol. I. p. 200, and the costs enforced by di under sect. 24 of that act.

ng such certificate (s. 13); a pedlar is to show his certificate 34 & 35 Vict.
demanded by a justice, &c. (s. 17), and he is not to prevent a c. 96.
able from opening and inspecting his pack, &c. (s. 19). See
ces and penalties in tit. "*Pedlars*," Vol. I. pp. 658—660.

nviction of Pedlar to be indorsed on Certificate.] Sect. 14. "If
pedlar is convicted of any offence under this act, the court before
h he is convicted shall indorse or cause to be indorsed on his
ficate a record of such conviction. The indorsements made
r this act on a pedlar's certificate shall be evidence of the facts
d therein."

privation by Justices of Pedlar's Certificate.] Sect. 16. "Any
t before which any pedlar is convicted of any offence, whether
r this or any other act, or otherwise, may, if he or they think
deprive such pedlar of his certificate;—and any such court shall
rive such pedlar of his certificate if he is convicted of begging.
is should also be indorsed on the certificate if forthcoming,
the certificate sent to the officer of police who granted it.]
court of summary jurisdiction may summon a pedlar holding a
ificate under this act to appear before them, and if he fail to
ear, or on appearance to satisfy the court that he is in good
h carrying on the business of pedlar, shall deprive him of his
ificate." [Production of certificate may be required by justices.
sect. 17, *infra*.]

Pedlar to show Certificate to certain Persons on Demand]. Sect. 17.
ny pedlar shall at all times, on demand, produce and show his
ificate to any of the following persons; (that is to say,)—1. Any
tice of the peace; or 2. Any constable or officer of police; or
Any person to whom such pedlar offers his goods for sale; or
Any person in whose private grounds or premises such pedlar is
nd; and allow it to be read and a copy thereof to be taken
such persons." [Penalty on refusal, Offence 10, Vol. I. p. 660.]

*Arrest of uncertificated Pedlar or Pedlar refusing to show his Certi-
te.*] Sect. 18. "Where a person acting as a pedlar either refuses
show his certificate or has no certificate, or refuses to allow or
vents or attempts to prevent any such opening or inspection of
pack, box, bag, trunk, or case as is authorized under this act, it
all be lawful for any of the persons authorized to demand the pro-
ction of the certificate, and also for any other person acting by
order or at his request and in his aid, to apprehend such offender,
d forthwith to convey or cause him to be conveyed before a justice
the peace . . . ."

Police empowered to inspect Pedlar's Pack.] Sect. 19. "It shall
lawful for any constable or officer of police at any time to open
d inspect any pack, box, bag, trunk, or case in which a pedlar
rries his goods, wares, and merchandize.] Penalty on refusal,
ffence 11, Vol. I. p. 662.]

PETROLEUM.

34 & 35 Vict. c. 105.

"The Petroleum Act, 1871," 34 & 35 Vict. c. 105, repe sect. 17, the Act of 1862, 25 & 26 Vict. c. 66, ss. 8, 9 of 29 & c. 69, as to Dangerous Goods (as to which now see 32 & c. 113, in tit. "*Nitro-Glycerine*," and tit. "*Dangerous Goods*, "The Petroleum Act, 1868," 31 & 32 Vict. c. 56; but conti force only until the 31st of December, 1876, and to the end then next session of parliament (38 & 39 Vict. c. 72, s. 2, S

Grant of Licence for Storage of Petroleum by Local Auth Justices.] By 34 & 35 Vict. c. 105, s. 7, "Save as hereinafte tioned, after the passing of this act, petroleum to which t applies 125 shall not be kept, except in pursuance of a given by such local authority as is in this act menti [Penalty for contravening this section, Offence 1, Vol. I.

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125 *Definition of "Petroleum" and Application of Act.*] By "for the purposes of this act the term 'petroleum' includes any r Rangoon oil, Burmah oil, oil made from petroleum, coal, schist, shal or other bituminous substance, and any products of petroleum, or the above-mentioned oils;—and the term 'petroleum to which t applies,' means such of the petroleum so defined as, when tested in n set forth in schedule one to this act, gives off an inflammable vap a temperature of less than 100 degrees of Fahrenheit's thermo The schedule referred to is,—

"*Directions for testing Petroleum to ascertain the Temperature at whi gives off inflammable Vapour.*

"The vessel which is to hold the oil shall be of thin sheet iron; it be two inches deep and two inches wide at the opening, tapering sl towards the bottom; it shall have a flat rim, with a raised edge one q of an inch high round the top; it shall be supported by this rim in vessel four inches and a half deep and four and a half inches in diam it shall also have a thin wire stretched across the opening, which shall be so fixed to the edge of the vessel that it shall be a quarter inch above the surface of the flat rim. The thermometer to be used have a round bulb about half an inch in diameter, and is to be gradu upon the scale of Fahrenheit, every ten degrees occupying not less half an inch upon the scale. The inner vessel shall be filled with petroleum to be tested, but care must be taken that the liquid does cover the flat rim. The outer vessel shall be filled with cold, or n cold, water; a small flame shall be applied to the bottom of the vessel, and the thermometer shall be inserted into the oil so that the shall be immersed about one and a half inches beneath the surface screen of pasteboard or wood shall be placed round the apparatus, shall be of such dimensions as to surround it about two-thirds, an reach several inches above the level of the vessels. When heat has applied to the water until the thermometer has risen to about ni degrees Fahrenheit, a very small flame shall be quickly passed across surface of the oil on a level with the wire. If no pale blue flicke flash is produced, the application of the flame is to be repeated for ev rise of two or three degrees in the thermometer. When the flashing p has been noted, the test shall be repeated with a fresh sample of th using cold, or nearly cold, water as before, withdrawing the source heat from the outer vessel when the temperature approaches that no in the first experiment, and applying the flame test at every rise of degrees in the thermometer."

Petroleum"]; but "this section shall not apply to any petro- kept either for private use or for sale, provided the following tions are complied with:—(1.) That it is kept in separate , earthenware, or metal vessels, each of which contains not than a pint, and is securely stopped: (2.) That the aggre- amount kept, supposing the whole contents of the vessels in bulk, does not exceed 3 gallons." By sect. 8, "The ing bodies shall respectively be the local authority to grant es under this act in the districts hereinafter mentioned; (that say,)— 34 & 35 Vict. c. 105.

) In the city of London, except as hereafter in this section mentioned, the court of the lord mayor and aldermen of the said city:

) In the metropolis (that is, in places for the time being within the jurisdiction of the Metropolitan Board of Works under 'The Metropolis Management Act, 1855,' except the city of London, and except as hereafter in this section mentioned, the Metropolitan Board of Works:

) In any borough [*i.e.* subject to the 5 & 6 Will. 4, c. 76 (s. 2)] in England . . . except as hereafter in this section mentioned, the mayor, aldermen and burgesses acting by the council:

) In any place in England . . . except as hereafter in this section mentioned, within the jurisdiction of any trustees or improvement commissioners appointed under the provisions of any local or general act of parliament, and not being a borough or comprising any part of a borough, the trustees or commissioners:

) In any place in England (except as hereafter in this section mentioned) within the jurisdiction of a local board constituted under 'The Local Government Act, 1858,' and not being any of the districts before mentioned or comprising any part of any such district, the local board:

* * * * * *

) In any harbour within the jurisdiction of a harbour authority,[126] whether situate or not within the jurisdiction of any local authority before in this section mentioned, the

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[126] *Definition of "Harbour" and "Harbour Authority."*] By sect. 2, e term 'harbour' means any harbour properly so called, whether natural rtificial, and any port, haven, estuary, tidal river, or other river, canal, nland navigation navigated by sea-going ships, and any dock, pier, y, or other works in or at which ships do or can ship or unship goods passengers: the term 'harbour authority' includes any persons or ons being or claiming to be proprietors or proprietor of or intrusted h the duty or invested with the power of improving, maintaining, or naging any harbour."

34 & 35 Vict. c. 105.

harbour authority, to the exclusion of any othe authority:

(9.) In any place in which there is no local authority as in this section defined, in England . . . the j in petty sessions assembled . . ." [*Vide* Fo Application for, and Licence, Oke's "*Formulist*," (p. 879.]

Mode of granting Licences.] Sect. 9. "Licences in pursu this act shall be valid if signed by two or more of the person stituting the local authority, or executed in any other w which other licences, if any, granted by such authori executed. Licences may be granted for a limited time and n subject to renewal or not in such manner as the local aut think necessary. There may be annexed to any such licence conditions as to the mode of storage, the nature and situat the premises in which, and the nature of the goods with petroleum to which this act applies is to be stored, the faciliti the testing of such petroleum from time to time, the mo carrying such petroleum within the district of the lic authority, and generally as to the safe keeping of such petr as may seem expedient to the local authority. Any lic violating any of the conditions of his licence shall be deemed an unlicensed person. [See Offence 4, Vol. I. p. 664.] There be charged in respect of each licence granted in pursuance of act such sum, not exceeding five shillings, as the local auth may think fit to charge."

In case of Refusal of Licence, the Applicant may memorialize Secretary of State.] Sect. 10. "If on any application for a li under this act the local authority refuse the licence, or gran same only on conditions with which the applicant is dissati the local authority shall, if required by the applicant, deliv him in writing under the hand or hands of one or more of persons constituting the local authority, a certificate of the gro on which they refused the licence or annexed conditions to grant thereof. The applicant within ten days from the time of delivery of the certificate may transmit the same to a secreta state if the application is for a licence in England . . . to with a memorial, praying that notwithstanding such refusal licence may be granted, or that the conditions may not be imp or may be altered or modified in such manner and to such ex as may be set forth in such memorial. It shall be lawful for secretary of state . . . if he think fit, on consideration of memorial and certificate, and, if he think it necessary or desira after due inquiry and a report by such person as he may app for that purpose, to grant the licence prayed for, either absolut or with such conditions as he thinks fit, or to alter or modify

ions imposed by the local authority;—and the licence so 34 & 35 Vict. c. 105.
d, or altered and modified, as the case may be, when certified the hand of a secretary of state, . . . shall be to all s as valid as if granted by the local authority."

bour Authority to make Bye-laws as to Ships carrying Petro- By sect. 4, "Every harbour authority [see definition in 26] shall frame and submit for confirmation to the board of bye-laws for regulating the place or places at which ships "every description of vessel used in navigation, whether pro- by oars or otherwise" (s. 3)] carrying petroleum to which t applies are to be moored in the harbour over which such rity has jurisdiction, and are to land their cargo, and for ting the time and mode of, and the precautions to be taken ch landing. The harbour authority shall publish the bye- o framed with a notice of the intention of such authority to for the confirmation thereof. The board of trade may con- such bye-laws with or without any omission, addition, or tion, or may disallow the same. Every such bye-law when med shall be published by the harbour authority, and may be time to time altered or repealed by a bye-law made in like er. Bye-laws under this section shall be published in such er as the board of trade may from time to time direct. If at ime it appears to the board of trade that there is no bye-law he time being in force under this section in any harbour the l of trade may, by notice, require the harbour authority of harbour to frame and submit to them a bye-law for the oses of this section, and if such harbour authority make lt in framing a bye-law and obtaining the confirmation of within the time limited by such notice the board of trade make a bye-law for the purposes of this section, and such law shall have the same effect as if it had been framed by the our authority and confirmed by the board of trade." [See ce 1, Vol. I. p. 662, tit. "*Petroleum*," for penalty on contra- ion of such bye-laws, and Mem. to the offence as to power of our authority to remove ship.] By sect. 5, "The owner or er of every ship carrying a cargo, any part of which consists etroleum, to which this act applies, on entering any harbour in the United Kingdom, shall give notice of the nature of cargo to the harbour master having jurisdiction over such our." [Penalty for not giving the notice, see Offence 2, Vol. I. 53.]

bels on Vessels containing Petroleum.] Sect. 6 contains pro- ns hereon, and is set out in *Note* **326**, Vol. I. p. 580, and nce 3, Id. p. 664.

efusing Information and obstructing Officer of Local Authority.] t. 12; see Offences 5, 6, Vol. I. p. 664.

34 & 35 Vict. c. 105.

Testing of Petroleum by Officer of Local Authority.] By s "Any officer authorized by the local authority may purcha petroleum from any dealer in it, or may, on producing a his appointment, purporting to be certified by the clerk o member of the local authority, or producing some other su authority, require the dealer to show him every or any pla all or any of the vessels in which any petroleum in his posse kept, and to give him samples of such petroleum on payment value of such samples. When the officer has by either of the aforesaid taken samples of petroleum, he may declare in wri the dealer that he is about to test the same, or cause the sam tested, in manner set forth in schedule one to this act [see *Va ante*, p. 1532, and *Beck* v. *Stringer*, 40 L. J. (N. S.) M. C. 1 Law T., N. S. 122],—and it shall be lawful for him to test th or cause the same to be tested, at any convenient place a reasonable time as he may appoint, and the dealer or any appointed by him may be present at the testing,—and if it s to the officer or other person so testing that the petroleum which such samples have been taken is petroleum to which th applies, such officer or other person may certify such fact, a certificate so given shall be receivable as evidence in any pr ings that may be taken against a dealer in petroleum in purs of this act;—but it shall be lawful for a dealer proceeded a to give evidence in proof that such certificate is incorrect thereupon the court before which any such proceedings m taken may, if such court think fit, appoint some person s in testing petroleum to examine the samples to which such c cate relates, and to declare whether such certificate is corre incorrect. Any expenses incurred in testing any petroleum of dealer in pursuance of this section shall, if such dealer be victed of keeping, sending, conveying, selling, or exposin sale, petroleum in contravention of this act [Offence 4, V p. 664], be deemed to be a portion of the costs of the proceed against him, and shall be paid by him accordingly. In any event such expenses shall be paid by the local authority o any funds for the time being in their hands, and, in case the authority are the justices, out of the county rate."

Search Warrant for Petroleum.] By sect. 13, "Where any of summary jurisdiction 127 is satisfied by information on that there is reasonable ground to believe that any petroleu which this act applies is being kept, sent, conveyed, or expos

127 *Definition of "Court of Summary Jurisdiction."*] By sect. 2, term 'court of summary jurisdiction' means and includes any justi justices of the peace, sheriff, or sheriff substitute, metropolitan p magistrate, stipendiary or other magistrate, or officer, by whatever called, to whom jurisdiction is given by the Summary Jurisdiction [as to England, the 11 & 12 Vict. c. 43] or any acts therein referr

34 & 35 Vict. c. 105.

ithin the jurisdiction of such court in contravention of this t any place, whether a building or not, or in any ship or le, such court shall grant a warrant by virtue whereof it shall wful for any person named in such warrant to enter the place, or vehicle named in such warrant, and every part thereof, xamine the same and search for petroleum therein, and take les of any petroleum found therein,—and if any petroleum hich this act applies be found therein, which is kept, sent, eyed, or exposed for sale, in contravention of this act, to seize remove such petroleum, and the vessel containing the same, to detain such petroleum and vessel until some court of mary jurisdiction has determined whether the same are or not ited, the proceedings for which forfeiture shall be commenced hwith after the seizure. Any person seizing any petroleum to ch this act applies in pursuance of this section shall not be le to any suit for detaining the same, or for any loss or damage urred in respect of such petroleum, otherwise than by any wilful or neglect while the same is so detained. If any petroleum to ch this act applies is seized in pursuance of this section in any or vehicle, the person seizing the same may use for the purposes he removal thereof, during twenty-four hours after the seizure, said ship or vehicle, with the tackle, beasts and accoutrements nging thereto, and if he do so shall pay to the owner thereof easonable recompense for the use thereof,—and the amount of h recompense shall, in case of dispute, be settled by the court summary jurisdiction before whom proceedings for the forfeiture taken, and may be recovered in like manner as penalties under s act may be recovered." [See recovery and penalty for refusing admit officer, &c., Offence 7, Vol. I. p. 664.]

Order in Council may apply Act to other Substances.] By sect. 14, Her Majesty may from time to time make, revoke, and vary orders council directing this act, or any part thereof, to apply to any bstance, and this act, or the part thereof specified in the order, all, during the continuance of the order, apply to such substance,

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to proceedings before whom the provisions of the summary Jurisdicn Acts are or may be made applicable."

By sect. 15, sub-s. 3, "the court of summary jurisdiction, when hearing d determining an information or complaint, shall be constituted in some e of the following manners; (that is to say), (a) In England, either of o or more justices of the peace in petty sessions sitting at a place ppointed for holding petty sessions, or of one of the magistrates hereinter mentioned, sitting alone or with others at some court or other place ppointed for the administration of justice; that is to say, the lord mayor, any alderman of the city of London, a metropolitan police magistrate, stipendiary magistrate, or some other officer or officers for the time eing empowered by law to do alone or with others any act authorized to e done by more than one justice of the peace."

34 & 35 Vict. c. 105.

and shall be construed and have effect as if throughout it such substance had been included in the definition of petroleum to which this act applies [see *Note* 125, *ante*, p. 1532], subject to the following qualifications:

"(1) The quantity of any substance to which this act is directed by order in council to apply, which may be kept without a licence, shall be such quantity only as is specified in that behalf in such order,—or if no such quantity is specified, no quantity may be kept without a licence:

"(2) The label on the vessel containing such substance shall be such as may be specified in that behalf in the order,"

PLEASURE YACHTS.

25 & 26 Vict. c. 63, s. 13.

The same provisions of "The Merchant Shipping Act, 1854," as stated under the title "*Fishing Boats*," *ante*, apply to "Sea-going Ships being Pleasure Yachts."

POLICE OF TOWNS. 128

10 & 11 Vict. c. 89.

"The Town Police Clauses Act, 1847," 10 & 11 Vict. c. 89, the extent of which is shown in *Note* 384, Vol. I. p. 672, provides for several matters being heard and determined before justices, viz.:—

Any justices may swear in any person appointed as a constable under this and the special act (s. 8). See sects. 6 and 7 as to their appointment. 129 The duties of constables are directed by sects. 14, 15, 24, 25, and their power to take recognizances by sects. 17, 18, 19.

A justice may issue his warrant to search for accoutrements of constables refused to be given up (s. 11).

Difference between commissioners and the owners of lands or buildings as to expenses for use of fire police, out of limits of the special act, to be determined by two justices, and recoverable as damages (s. 33).

A justice may determine complaints for refusal to deliver up licences for drivers of hackney carriages, and award compensation to driver by the proprietor (s. 49).

Sum paid beyond the proper fare for hire of hackney carriage recoverable back before one justice (s. 55).

Proprietor to pay compensation for damage caused by his driver's offence and may recover the same from the driver as damages (s. 63). [Forms, Nos. 1—8, Oke's "*Formulist*," 6th ed. p. 880.]

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128 The Local Board under "The Public Health Act, 1875," may execute certain of the provisions of this act.

129 As to these constables, see now the County Police Act, 19 & 20 Vict. c. 69, ss. 18, 19, *ante*, p. 1366.

res for hackney carriages may be recovered before one justice penalty (s. 66); see *Norton* v. *Jones*, 8 Law T., N. S. 841, as to re for children. [Forms, Nos. 9—11, Oke's "*Formulist*," 6th . 881.] 10 & 11 Vict. c. 89.

e provisions of the 10 & 11 Vict. c. 34 (tit. "*Towns Improve-*." *post*), as to recovery of and appeal against rates, are incor-ted with this act (s. 70).

mages.] Damages, not specially provided for, and penalties the determination of other matters referred to justices, are to be nder the 8 & 9 Vict. c. 20. (s. 73.) See tit. "*Railways*," *post*.

POOR.[130]

I. *Appointment of Assistant Overseer.*
II. *Removal of the Poor, &c.*
III. *Relief and its Recovery, and Poor Houses.*
IV. *Maintenance of Relations.*
V. *Overseers not accounting or paying Balances.*
VI. *Making of the Poor Rate.*
VII. *Allowance and Excusal of Rates.*
VIII. *The Divided Parishes and Poor Laws Amendment Act*, 1876.

I. *Appointment of Assistant Overseer.*

n assistant overseer is appointed by two justices in petty sessions, nomination of the inhabitants of the parish in vestry (s. 7; and *Reg.* v. *Justices of Salop*, 11 Law T., N. S. 416); but it would pear from 7 & 8 Vict. c. 101, ss. 61, 62, *infra*, that justices cannot point a person to the office who has been previously appointed a llector of rates, nor, by 29 & 30 Vict. c. 113, s. 10, an overseer of e poor. The appointment is exempt from stamp duty by 4 & 5 ill. 4, c. 76, s. 86, and so is the bond which an assistant overseer to give for the due execution of his office (7 & 8 Vict. c. 101, s. 61). 'orm of Appointment, No. 39, p. 906, Oke's "*Formulist*," 6th ed.] e 7 & 8 Vict. c. 101, s. 61, as to collectors of rates who are not ppointed by justices, but by the poor law board on a resolution of uardians; and s. 62, as to the vestry giving power to assistant verseers appointed before 9th August, 1844, to do all the duties of 1 overseer. [Forms of Bonds, Nos. 82, 83, Oke's "*Formulist*," h ed. pp. 919, 920.] 59 Geo. 3, c. 12.

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130 By 30 & 31 Vict. c. 106, s. 27, "where a union extends into several istinct jurisdictions, every matter, act, charge, or complaint by which the uardians thereof are affected, or in which they have any interest, shall r the purpose of jurisdiction be deemed to arise or exist equally roughout the union"—*i. e.*, if it has arisen or exists in any one parish ay be treated as having arisen or existed in any other parish in the me union, so as to give to the guardians the right to have recourse to hat part which is most convenient to themselves (*Reg.* v. *Justices of Staf-rdshire*, 41 L. J. (N. S.) M. C. 78)]. 30 & 31 Vict. c. 106, s. 27.

II. *Removal of the Poor, &c.*

Removal of the Poor generally.] The different kinds of
ment are, 131—birth;—derivative (by marriage or parents
hiring and service (abolished by 4 & 5 Will. 4, c. 76, s. 64
prenticeship in the sea service (abolished by 4 & 5 Will. 4, 76,
—renting a tenement up to 2nd July, 1819, of annual v
10*l.* for a year, and occupying and sleeping in same for that
or forty days and on the last day of occupancy;—renting a se
and distinct tenement, *bonâ fide* hired for a year, at 10*l.* a y
the least, and paid rent from 2nd July, 1819, to 22nd June,
and occupancy and sleeping as in the last case;—renting a
ment as in the last case, with certain restrictions, from 22nd
1825, to 30th March, 1831:—and also from 30th March, 18
14th August, 1834;—renting a tenement and paying rates
since 14th August, 1834;—estate, by seisin, by descent, &
devise, by purchase, as trustee, as *cestui que trust*, as mortgag
mortgagor, as executor, as administrator, as next of ki
marriage, payment of parochial rates and taxes, from 1690 to
June, 1795;—payment of parochial rates and taxes, from
June, 1795, to 22nd June, 1825;—payment of parochial rate
taxes, from 22nd June, 1825;—by serving a public office (abol
after 14th August, 1834, by 4 & 5 Will. 4, c. 76, s. 64);—by
tificatemen or their servants, &c.

The act preventing the removal of persons resident in a p
for five years, without receiving relief, is the 9 & 10 Vict. c.
but that has been amended by 24 & 25 Vict. c. 55, 27 & 28
c. 105, 28 & 29 Vict. c. 79, s. 8, and 31 & 32 Vict. c. 122, s. 34,
reduced to one year after 25th March, 1866. By the 28 &
Vict. c. 79, guardians in unions may obtain orders of remov
respect of paupers settled elsewhere (s. 2), and defend and ap
against orders of removal (s. 3), and may remove without or
where there is consent (s. 6). Sect. 4 relates to the signature
service of notices, &c.; and sect. 5 empowers guardians to call
books and papers from overseers. Two justices, 132 where
pauper is chargeable, are necessary to take the evidence as to
settlement, and make an order of removal; but where the pau
is ill, his examination may be taken by one justice and by him
ported to another (49 Geo. 3, c. 124, s. 4); and where the pau
is a prisoner the examination may be taken at the gaol by t
other justices (59 Geo. 3, c. 12, s. 28). Justices receiving t

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131 *Vide* Oke's "*Formulist*," 6th ed. pp. 890—897, for the mode
describing technically these several settlements in the ground
removal of paupers, and which may be also used as grounds of appe
setting up subsequent settlements.

132 Who need not be of the quorum (*Reg.* v. *Overseers of Llanyc*
L. J. (N. S.) M. C. 225; 8 Law T., N. S. 422).

laint of chargeability may summon witnesses wherever they s to give evidence in settlement cases by virtue of 7 & 8 Vict. l, s. 70 (see *Note* 371, *ante*, pp. 681, 682.) Joint or separate s of removal of children may be made when parents not re- d with them (*Overseers of Toxteth Park* v. *Churchwardens of rich*, 30 L. J. (N. S.) M. C. 154). If children are within the of nurture (seven years) they cannot be separated from the er and removed apart from her (*Reg.* v. *Inhabitants of Aughton*, w T., N. S. 244, Q. B.). By 30 & 31 Vict. c. 106, s. 24, en an order of removal is obtained by the guardians of any n not formed under 'The Poor Law Amendment Act, 1834,' r the guardians or overseers of any parish not included in any n so formed, in respect of a pauper alleged to be settled in parish included in a union so formed, such order shall be essed to the guardians of such union, and shall be dealt with ll respects as provided by 'The Union Chargeability Act, .'" By sect. 25, "when any order of removal made before passing of the said last-mentioned statute shall have been ended, and such suspension shall hereafter be taken off, the r of expenses to be made thereon shall, in the case of a parish prised in a union, be made in favour of the guardians of the n comprising the parish entitled to be reimbursed, and against guardians of the union containing the parish to which the r of removal was addressed;—and the several boards of rdians shall apply so much of the expenses as were incurred re the twenty-fifth day of March, one thousand eight hundred ixty-six, to the account of the respective parishes, and the ne to the account of the common funds of the unions." If order is suspended under 35 Geo. 3, c. 101, s. 2, the suspension t be made at the same time as the original order (*Reg.* v. *abitants of Llanellchid*, 29 L. J. (N. S.) M. C. 102; 1 Law T., S. 326); and the justices may make an order for payment of charges incurred by the suspension, which if above 20*l.* may appealed against. By 30 & 31 Vict. c. 106, s. 26, "when an er of removal is made upon the guardians of any union, its cution may be suspended in like manner as in the case of orders removal heretofore made in parishes, and with the like require- nts, liabilities, and consequences; provided that the guardians the union in whose favour such order is made may send an ount to the guardians of the union upon whom it is made, at end of every quarter, of the cost incurred in the maintenance the pauper and of his family, as the case may require;—and said last-mentioned guardians may pay the same, and if they glect to do so the said first-mentioned guardians may recover amount of the sum reasonably expended by them in any nty court within whose jurisdiction their union or the greater

part thereof shall be situated." The several forms of com order, examination, &c., necessary in removal of paupe given in Oke's "*Formulist*," 6th ed. pp. 881—888. The p cannot be removed until twenty-one days after the not chargeability, with a copy or counterpart of the order, is s the opposite parish (4 & 5 Will. 4, c. 76, s. 79; and see s. 8 the notice before the sessions, and *Reg.* v. *Justices of Sta* L. J. (N. S.) M. C. 69, in error, overruling *S. C.*, reported 3 (N. S.) M. C. 193; 6 Law T., N. S. 422), and also with the g of removal, see 11 & 12 Vict. c. 31, *infra*. The mode of eff the removal is regulated by 54 Geo. 3, c. 170, s. 10; 3 W. c. 11, s. 10, and 9 & 10 Vict. c. 66, s. 7.

Appeals against Orders of Removal.] The provisions of th 12 Vict. c. 31, as to procedure on appeals to the quarter se against orders of removal [as to what sessions in boroughs con of several parishes of union the appeal must be made, since 3 Vict. c. 106, s. 27, cited in *Note* 130, *ante*, p. 1539, *Reg.* v. J *of Staffordshire*, 41 L. J. (N. S.) M. C. 78, decided that the must be made to the same jurisdiction as made the order that enactment], may be shortly stated:—Notice of charges to be accompanied by a statement of the grounds of remov which the justices' order is made (s. 2) [Form, No. 15, "*Formulist*," 6th ed. p. 886];—clerk to the justices makin order of removal is to keep the depositions on which the or made, and, within seven days after application, furnish the guar or overseers with a copy on payment of 2*d.* per folio of seventy words (s. 3; see *Reg.* v. *Inhabitants of St. Alkmunds*, 32 L. J. M. C. 99);—as to the sufficiency of statement of ground removal or appeal;—power to amend such statement (s. party making frivolous or vexatious statement of ground removal or appeal liable to pay costs (s. 5);—power for cou amend order of removal on account of omission or mistake (s. 6 decisions of courts upon hearing of appeals final (s. 7);—aban ment of orders of removal before or after notice of appeal and t tion of costs (s. 8);—no appeal if notice be not given within tw one days after sending of notice of chargeability and ground removal, or, if depositions applied for under sect. 3, a fur period of fourteen days (s. 9), which notice of appeal may be by post (14 & 15 Vict. c. 105, s. 10) [see *Reg.* v. *Recorder of Rich* 27 L. J. (N. S.) M. C. 197];—service of suspended order of rem (s. 10). [Forms of Notice of Appeal, Abandonment, &c., Nos. 22, Oke's "*Formulist*," 6th edit. pp. 898, 899.] By 14 & 15 V c. 105, s. 12, parishes may agree to submit to the Poor Law B questions affecting the settlement, removal and chargeability paupers; and see 28 & 29 Vict. c. 79, s. 3 [Form, Oke's "*For list*," 6th edit., No. 23, p. 900.]

very of Costs on Appeals heard.] These are recovered as ties (4 & 5 Will. 4, c. 76, s. 82; 11 & 12 Vict. c. 31, s. 5; 13 Vict. c. 45, ss. 5, 18); and succeeding overseers are liable *parte Overseers of Fletton*, 29 L. J. (N. S.) M. C. 205), the es having no option as to granting the warrant if an order sions has been made (*Reg.* v. *Higginson and others Justices of Riding of Yorkshire*, 31 L. J. (N. S.) M. C, 189; 6 Law T., 351).

very of Costs on abandoned Orders.] By 11 & 12 Vict. c. 31, the costs on abandonment of an order of removal, when taxed e clerk of the peace, if not paid within ten days after being nded, are to "be recovered from the overseers or guardians idoning such order, or the succeeding overseers, *Ex parte Core*, P. 709], in the same manner as any penalties or forfeitures ecoverable under the said act of the 4 & 5 Will. 4, c. 76," nder s. 99, Offence 3, Vol. I. p. 680, tit. "*Poor.*"

very of Maintenance on an Order.] On complaint within . m. as provided by 11 & 12 Vict. c. 43, s. 11, Vol. I., p. 135, h applies although sect. 35 excepts the order of removal itself v. *Thorncroft*, 30 L. J. (N. S.) M. C. 52; *S. C., Cullompton* v. *thelmstone*, 3 Law T., N. S. 318), as penalties, &c. under 4 & ll. 4, c. 76 (s. 14). See *supra*, and 14 & 15 Vict. c. 105, s. 13. ms, Oke's "*Formulist*," 6th ed. Nos. 24, 24a, 26—28, 11.]

neral Expenses.] See 12 & 13 Vict. c. 103, s. 17.

covery of Maintenance under a suspended Order.] On complaint in 6 cal. m. (11 & 12 Vict. c. 43, s. 11, Vol. I. p. 135; see *Reg. verseers of Sculcoates*, 38 L. J. (N. S.) M. C. 33), by distress rant of one justice, 35 Geo. 3, c. 101, s. 2 (*Ex parte Williams*, . J. (N. S.) M. C. 125). [Forms, Oke's "*Formulist*," 6th edit. . 25—28, pp. 901, 902.]

moval of Natives, who are Paupers, to Scotland.] There are e acts regulating the manner of the removal from England of tch poor persons chargeable in England, viz. 8 & 9 Vict. c. 117; t 11 Vict. c. 33, and 25 & 26 Vict. c. 113, the enactments in which be thus shortly arranged:—If any person born in Scotland, not led in England, become chargeable to any parish in England by son of relief given to himself or herself, or to his wife, or to any itimate or bastard child, such person, his wife, and any child so rgeable are liable to be removed to Scotland (8 & 9 Vict. c. 117, 1). The relieving officer or other officer of the guardians of the ion or parish where the poor person is chargeable may apply & 26 Vict. c. 113, s. 2) and complain to a justice, who (if he do t attend voluntarily) summons such person to come before other stices (8 & 9 Vict. c. 117, s. 2), [or any guardian, relieving officer overseer may take and convey him before the justices without

summons or warrant, 10 & 11 Vict. c. 33], when two [or more ju in petty sessions assembled, or a stipendiary magistrate or politan police magistrate sitting in his court, 25 & 26 Vict. s. 1], may hear and determine the application, and issue a war remove such person at the expense of the union or parish (Vict. c. 117, s. 2). [Form of warrant is given in the 26 & 2 c. 89, Oke's "*Formulist*," 6th edit. No. 17a, p. 889.] 25 & 2 c. 113, requires the justices to see the poor person, or the who is the head of the family, and to be satisfied that every who is proposed to be removed by the warrant is in such a st health as not to be liable to suffer bodily or mental injury removal (Id. s. 1); 133 and the warrant is to contain the nam age of every person to be removed, where born or resid Scotland, and of the state of his health; the warrant is specially addressed; and when the place of birth cannot be tained, the justices may order the pauper to be removed to th or parish most expedient; and a copy of the warrant is to be to the pauper (see s. 2). The party obtaining the warra twelve hours at least before the removal, to send a copy of post to the inspector of the poor in Scotland, and a copy o depositions, if required, within three months (Id. s. 3). The wa is to order the poor persons to be conveyed to the place menti in it (Id. s. 4). The justices of the peace in quarter session counties, and the justices in petty sessions for boroughs, are, the approval of the home secretary, to make regulations as t removal of the poor persons by land or sea to the ports name the schedule to the act nearest where they were born (8 & 9 c. 117, s. 4); but notwithstanding such regulations it is unla to remove any woman or any child under fourteen, as a passenger in any vessel during the period from 1st October to March following (25 & 26 Vict. c. 113, s. 7). Persons execu warrants of removal are to have the authority of constable detain and hold the paupers until arrival at their destina (8 & 9 Vict. c. 117, s. 3). If the parish from which the paup sent is not in an union, and does not contain a population 30,000, the party obtaining the warrant is to be repaid out of county rates or borough fund, by the order of the quarter sessi or council, on an affidavit, made before a justice, with a statem of the items (Id. s. 5); in other cases, at the expense of the un or parish complaining (Id. s. 2); and if, through the default of person having charge of the warrant, the poor person is not remo

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133 In the case of *The Poor Law Commissioners for Ireland* v. *Vestry Liverpool* (39 L. J. (N. S.) M. C. 25; 21 Law T., N. S. 636), it was he that the wife and unemancipated children cannot, in the absence of husband, be removed. This decision was under the Irish Act, which identical in terms with this.

ultimate destination, the parochial board may remove him, over the expenses in the county court (Id. s. 6).

Removal of Natives, who are Paupers, to Ireland.] The enactments *supra*, in the 8 & 9 Vict. c. 117, and 10 & 11 Vict. c. 33, also to Irish paupers, chargeable to England, as does the 25 Vict. c. 76, which contains provisions similar to those above cited in the 25 & 26 Vict. c. 113, as to Scotch paupers. 133 further amended by 26 & 27 Vict. c. 89, s. 4, which gives the [illegible] the order for it and Scotch paupers. [Form, No. 17a, p. "*Formulist*," 6th ed. p. 889.] [See Poor Law Board's Circular [illegible], 27 J. P. 731, which contains a useful summary of the law.]

Isle of Man, Scilly, Jersey and Guernsey Paupers.] The provisions of the 8 & 9 Vict. c. 117 and 10 & 11 Vict. c. 33 only apply [illegible] paupers. [Forms, Nos. 16, 17, p. 888, Oke's "*Formulist*," [illegible] ed.]

Vagrants.] By 5 Geo. 4, c. 83, s. 20, every person convicted as [illegible] and disorderly person, or as a rogue and vagabond (see [illegible] I. p. 816, tit. "*Vagrants*"), is to be deemed actually chargeable to the parish, township or place in which such person shall [illegible]:—and such person is liable to be removed to the parish of [illegible] her last legal settlement, by the order of two justices of the [illegible] of the division or place in which such person shall reside.

III. *Relief and its Recovery, and Poor Houses.*

Relief in urgent Cases, or Medical Relief.] By 4 & 5 Will. 4, c. 76, s. 34, one justice may order overseers in cases of sudden and urgent necessity to give temporary relief to poor persons in articles, and [illegible] in money, or to give medical relief in cases of sudden and dangerous illness [Forms, Nos. 40, 41, pp. 906, 907, Oke's "*Formulist*," 6th ed.];—also in parishes not in unions by one justice, subject to the rules of the poor law commissioners (s. 52). 134 Forms, Nos. 42—44, pp. 907, 908, Oke's "*Formulist*," 6th ed.] [illegible] disobeying the justices' order, see Offence 14, Vol. I. p. 682, [illegible] "*Poor*." 4 & 5 Will. 4, c. 76.

Relief out of the Workhouse to Old Persons.] By 4 & 5 Will. 4, c. 76, s. 27, in unions, two justices of the district of the union, at their just and proper discretion, may direct by order that relief shall be given to any adult person (entitled to relief in the union), who from old age or infirmity of body is wholly unable to work, without requiring that such person shall reside in the workhouse; provided one of the justices certifies in the order, of his own know-

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134 Relief to a child above sixteen, although unemancipated and residing with the parent, is not relief to the parent (*Reg.* v. *Overseers of St. Mary, Islington*, 31 L. J. (N. S.) M. C. 233; *Reg.* v. *St. George, Bloomsbury*, 32 L. J. (N. S.) M. C. 217). The same principle is admitted by the legislature in the 29 & 30 Vict. c. 113, s. 15.

ledge, that such person is wholly unable to work. [Form, 1
p. 908, Oke's "*Formulist*," 6th edit.]

Attaching Wages.] To repay relief granted by way of l
summoning the master and the man, or man only (see 4 & 5 V
c. 76, ss. 58, 59), within six calendar months (11 & 12 Vict
s. 11, Vol. I. p. 135);—recovered by distress as penalti
Offence 3, Vol. I. p. 680, in tit. "*Poor*"; or against the man
59 Geo. 3, c. 12, s. 29 (not in unions), upon application w
year after the loan, and in default of payment imprisonment
exceeding three calendar months, unless sooner paid. [Forms
46—54, pp. 909—911, Oke's "*Formulist*," 6th edit.] By 1
Vict. c. 110, s. 8, such relief may be recovered in the county

Relief to Out-Pensioners.] See 19 & 20 Vict. c. 15.

59 Geo. 3, c. 12. *Recovery of Poor-Houses.*]—One month's notice in writing given by the major part of the churchwardens and overseers t persons neglecting to quit, and served either personally or absence affixed on some notorious part of the premises [or on one on the premises, see *Appleton* v. *Morray*, 2 Law T., N. S Overseer to lay complaint and justice to issue summons (seven service as notice). Two justices may grant a warrant of poss (59 Geo. 3, c. 12, ss. 24, 25), and notwithstanding the party i session disputes the title of the parish officers; *Reg.* v. *Justi Llanfillo, Brecknock*, 15 Law T., N. S. 277; *S. C., Ex parte Vau* 36 L. J, (N. S.) M. C. 17. [Forms, Nos. 66—69, pp. 913, Oke's "*Formulist*," 6th ed.] As to recovery of parish school-h see 4 & 5 Vict. c. 38, s. 18.

IV. *Maintenance of Relations.*

43 Eliz. c. 2. *Under Act of Elizabeth—Alteration of Law after 31st July,* 1 By 43 Eliz. c. 2, s. 7, the father and grandfather, and the m and grandmother, and the children, of every poor, old, blind, and impotent person, or other poor person not able to work chargeable to the parish, &c.], being of sufficient ability, shall lieve and maintain every such poor person [as any two or j justices where any such sufficient person shall dwell shall assess order, 135 59 Geo, 3, c. 12, s. 26, this jurisdiction being repe from 31st July, 1868, by 31 & 32 Vict. c. 122, s. 36, given a 1547], [on a complaint made by the churchwardens and over within six calendar months, 11 & 12 Vic. c. 43, s. 11, Vol. I. p. 1

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135 This is in the nature of a conviction and is a criminal matte was decided in *Bancroft* v. *Mitchell* (36 L. J. (N. S.) Q. B. 257; 16 L T., N. S. 558), and therefore is within the 11 & 12 Vict. c. 43 (see Vo pp. 113, 114), and the costs of the proceedings can be ordered unde & 12 Vict. c. 43, s. 18, *ante*, p. 194. A wife is not included in this ena ment, but if she be a lunatic, the 13 & 14 Vict. c. 101, s. 5, p. 1 applies, and the 31 & 32 Vict. c. 122, s. 33, p. 1548, when a mar woman is relieved without her husband.

pain of forfeiting the penalty of 20*s.* for every [calendar, 13 & ict. c. 21, s. 4] month which they shall fail therein, and costs r sect. 18, *ante*, p. 195. The sum assessed with the penalty is vered by conviction (on an information made within six calendar ths, 11 & 12 Vict. c. 43, s. 11, *supra*, by virtue of 4 & 5 Will. 4, , s. 78, as penalties and forfeitures are recovered under the r act, *i. e.* by distress, and in default imprisonment for not eding three calendar months, unless sooner paid (s. 99, see croft v. *Mitchell*, in *Note* 135, *supra*). [Forms of Complaint, mons, Order and Statement of Offence for the conviction, &c., 55—59, pp. 911, 912, Oke's "*Formulist*," 6th ed.];—or the ndant may be indicted for disobeying the order (*Rex* v. *Robinson*, rr. 799). By 11 & 12 Vict. c. 110, s. 8, the guardians of any n may obtain orders of maintenance of poor persons chargeable he common fund, in like manner as churchwardens and over- s may obtain same when chargeable to a parish. By 31 & 32 c. 122, s. 36, so much of the acts of the forty-third Elizabeth, pter two, and the fifty-ninth George the Third, chapter twelve, nables orders of maintenance to be made by the justices having sdiction in the place where the persons upon whom they are to nade dwell, and as prescribes the penalty for disobedience, and ion seventy-eight of 'The Poor Law Amendment Act, 1834,' 5 Will. 4, c. 76, shall, in respect of any order to be made nafter, be repealed;—and such orders shall be made by the ices in petty sessions assembled at their usual place of meeting ing jurisdiction in the union or parish to which the poor person hose behalf the same shall be sought to be made shall be charge- ,—and shall be enforced in the manner prescribed by the act of eleventh and twelfth Victoria, chapter forty-three, for enforcing ers of justices" [*i. e.* on complaint within six calendar months & 12 Vict. c. 43, s. 11), by distress (Id. s. 19, Vol. I., p. 235); and lefault of distress imprisonment for not exceeding three calendar nths, unless the amount and costs be sooner paid (Id. s. 22, Id. 228].

43 Eliz. c. 2.

31 & 32 Vict. c. 122, s. 36.

Of Lunatic Married Women.] By 13 & 14 Vict. c. 101, s. 5, where f married woman shall be duly removed to any asylum, licensed ase or registered hospital, under any of the statutes 136 in such alf, any two justices having jurisdiction in the place wherein the sband of such lunatic shall dwell, upon application by or on behalf the guardians of the union 137 or of the parish having a separate ard of guardians, or the overseers of the parish to which union or

13 & 14 Vict. c. 101.

136 See *ante*, tit. "*Lunatics.*"

137 *Vide Note* 368, *ante*, pp. 679, 680, as to the manner in which the ardians may depute one of their officers to prefer complaints before stices.

13 & 14 Vict. c. 101.

parish respectively such lunatic shall be or become chargeabl summon such husband to appear before them to show cause order should not be made upon him to maintain or contribute t the maintenance of his wife in such asylum, licensed house gistered hospital;—and upon his appearance, or in the ev his not appearing, upon proof of the service of such summon him, such justices [*i. e.* the same who issued the summons] n they think fit) make an order upon him to pay such sum, or otherwise, for or towards the cost of the maintenance o lunatic, as after consideration of all the circumstances of th shall appear to them to be proper, and determine in such how and to whom the payments shall from time to time be which order shall, if the payments required by it to be made arrear, be enforced in the manner prescribed by the 11 & 12 c. 43, for the enforcing of orders of justices requiring the pa of a sum of money,—*i. e.* by distress, after a complaint o obedience, summons and hearing, and in default of di imprisonment for not exceeding three calendar months, wi hard labour, unless the amount, costs of order, of distres conveyance to gaol, be sooner paid (ss. 19, 22, Vol. I. pp. 195, [Forms, Nos. 63—65, pp. 912, 913, Oke's "*Formulist*," 6th ed

31 & 32 Vict. c. 122, s. 33.

Of Married Women relieved without Husband.] By 31 & 32 c. 122, s. 33, "when a married woman requires relief withou husband, the guardians of the union or parish, or the overse the parish, as the case may be, to which she becomes charge may apply to the justices having jurisdiction in such unio parish in petty sessions assembled, and thereupon such ju may summon such husband to appear before them to show c why an order should not be made upon him to maintain his wi and upon his appearance, or, in the event of his not appea upon proof of due service of such summons upon him, such ju may, *after hearing such wife upon oath*, or receiving such evidence as they may deem sufficient, make an order upon hi pay such sum, weekly or otherwise, towards the cost of the m of the wife, as, after consideration of all the circumstances of case, shall appear to them to be proper, and shall determine in s order how and to whom the payments shall from time to tim made; 138—which order shall, if the payments required by i

138 The cases of *Reg.* v. *Flintan*, and *Flannagan* v. *Overseers of E wearmouth*, cited in *Note* 435, under tit. "*Vagrants*," Vol. I. p. 817, w seem to apply to this enactment, and to exonerate a husband from p ment for his wife's maintenance if she has refused to live with him committed adultery. But in *Thomas* v. *Alsop*, 39 L. J. (N. S.) M. C 21 Law T., N. S. 715, decided under the enactment in the text, the C of Queen's Bench said that the scope of the two acts was distinct, held that the justices had jurisdiction to make the order under it, withstanding the husband's offer to receive back his wife promising to ill-use her, it being for the justices to determine whether she is bo to return to her husband.

ıade be in arrear, be enforced in the manner prescribed by the ı the eleventh and twelfth Victoria, chapter forty-three, for nforcing of orders of justices requiring the payment of a sum ıoney [*i. e.* by distress (11 & 12 Vict. c. 43, s. 19, Vol. I. 15), and in default of distress, imprisonment for not exceeding calendar months, unless the amount and costs be sooner paid s. 22, Id. p. 228]:—provided that such order may be at any re time revoked by the justices in petty sessions assembled, if see sufficient cause for so doing." 31 & 32 Vict. c. 122, s. 33.

arried Women liable to Parish for Maintenance of her Husband Children.] By "The Married Women's Property Act, 1870," 34 Vict. c. 93, s. 13, "where in England the husband of any an having separate property becomes chargeable to any union arish, the justices having jurisdiction in such union or parish , in petty sessions assembled, upon application of the guardians he poor, issue a summons against the wife, and make and rce such order against her for the maintenance of her husband y the thirty-third section of 'The Poor Law Amendment Act, ' (31 & 32 Vict. c. 122, *supra*), they may now make and enforce nst a husband for the maintenance of his wife who becomes geable to any union or parish." By sect. 14, "a married woman ing separate property shall be subject to all such liability for maintenance of her children as a widow is now by law subject or the maintenance of her children:—provided always, that ning in this act shall relieve her husband from any liability at ent [9th August, 1870] imposed upon him by law to maintain children." 33 & 34 Vict. c. 93, ss. 13, 14.

V. *Overseers not accounting or paying Balances.*

verseers not accounting.] Churchwardens and overseers of parishes, in unions, or any of them, refusing or neglecting to make or d up or to submit accounts, or to verify the same by oath, or deliver over to successors, within ten days from the signing and sting such accounts, any goods, chattels or things remaining in r hands, two or more justices may commit until he, she or they ll have made and yielded up such accounts, and verified same, delivered over such goods, &c.;—and for refusing or neglecting pay to successors, within fourteen days from the signing and sting accounts, the sums due, they may issue their warrant to y same on the offender's goods, and in default may commit him gaol until payment. Where district auditors are appointed, the rseers neglecting or refusing to deliver over books, &c., are liable be committed likewise until they do so (7 & 8 Vict. c. 101, s. 32). 17 Geo. 2, c. 38, s. 2; 50 Geo. 3, c. 49, s. 1.

Recovery of Balance found by Union Auditor.] By 7 & 8 Vict. 101, s. 32, the proceedings for recovery of sums certified to be due m overseers or surcharged by poor-law union auditors, are the 7 & 8 Vict. c. 101.

7 & 8 Vict. c. 101.

same as penalties under sect. 99 of 4 & 5 Will. 4, c. 76 (Off 9—12, Vol. I. p. 682, tit. "*Poor*"), *i. e.* before two justice distress, &c. 139 11 & 12 Vict. c. 91, s. 9, provides what sha required to be proved by auditors before justices in ord recover the sums so certified;—and by 12 & 13 Vict. c. 103, the auditor must commence such proceeding within nine cale months from his disallowance or surcharge; or, in the event o application by way of appeal against the same to the Cou Queen's Bench, or to the Poor Law Board, from the determin thereupon. [Forms, Nos. 73—77, pp. 916, 917, Oke's "*Forms* 6th ed.] [These auditors are hereafter, when the office bec vacant after 31st July, 1868, to be appointed by the Poor Board, 31 & 32 Vict. c. 122, s. 24.]

VI. *Making of the Poor Rate.*

32 & 33 Vict. c. 41.

It is perhaps unnecessary to say that a poor rate is made by majority of the churchwardens and overseers on the net an value of the property liable to be rated (there being certain exe tions as to scientific and literary institutions by 6 & 7 Vict. c. buildings used for religious worship by 3 & 4 Will. 4, c. 30, ss. and Sunday and ragged schools by 32 & 33 Vict. c. 40), and in form prescribed by the 6 & 7 Will. 4, c. 96, and 25 & 26 V c. 103, with such variations as the 32 & 33 Vict. c. 41, not specially *infra*, requires.

"The Poor Rate Assessment and Collection Act, 1869," 32 & Vict. c. 41 [passed 26th July, 1869], and which came into op tion on 29th September, 1869 (see s. 22), contains the *follow* provisions as to the making of the rate, and the privileges of oc piers:—

Rating Owners instead of Occupiers.] Sect. 6 repeals the 13 & Vict. c. 99, and local acts hereon, so far as they apply to any p rate made after 29th September, 1869. Sect. 3 enacts, "In case rateable value of any hereditament does not exceed £20, if the h ditament is situate in the metropolis, or £13 if situate in any par wholly or partly within the borough of Liverpool, or £10 if situ in any parish wholly or partly within the city of Manchester, or borough of Birmingham,—or £8 if situate elsewhere,—and the ow

139 The justices have no jurisdiction to consider whether or not sum or expenses due or surcharged have been properly incurred, &c., can any irregularity in holding the audit be gone into before them; the justices are bound to issue their warrant. *Reg.* v. *Lingford*, 7 E. & 950; *Reg.* v. *Overseers of Napton*, 25 L. J. (N. S.) Q. B. 296; *Re Hunt*, 6 E. & B. 408; *Reg.* v. *Justices of Denbighshire*, 33 Law T. 14 *Reg.* v. *Finnis*, 28 L. J. (N. S.) M. C. 201; 33 Law T. 146; *Reg.* v. 15 Law T., N. S. 291; and see *Reg.* v. *Master*, 38 L. J. (N. S.) M. C where the amount due was held to be a debt extinguished by the ban ruptcy of the defendant.

hereditament is willing to enter into an agreement in writing the overseers to become liable to them for the poor rates d in respect of such hereditament, for any term not being less e year from the date of such agreement, and to pay the poor whether the hereditament is occupied or not, the overseers ubject nevertheless to the control of the vestry, agree with the to receive the rates from him, and to allow to him a commission exceeding twenty-five per cent. on the amount thereof." (See 8, 9, *infra.*) By sect. 4, "The vestry of any parish may from to time order that the owners of all rateable hereditaments to h section three of this act extends, situate within such parish, be rated to the poor rate in respect of such rateable heredita-s, instead of the occupiers, on all rates made after the date of order;—and thereupon and so long as such order shall be in the following enactments shall have effect:—

32 & 33 Vict. c. 41.

The overseers shall rate the owners instead of the occupiers, and shall allow to them an abatement or deduction of fifteen per centum from the amount of the rate;

If the owner of one or more such rateable hereditaments shall give notice to the overseers in writing that he is willing to be rated for any term not being less than one year in respect of all such rateable hereditaments of which he is the owner, whether the same be occupied or not, the overseers shall rate such owner accordingly, and allow to him a further abatement or deduction not exceeding fifteen per centum from the amount of the rate during the time he is so rated;

The vestry may by resolution rescind any such order after a day to be fixed by them, such day being not less than six months after the passing of such resolution, but the order shall continue in force with respect to all rates made before the date on which the resolution takes effect;

vided that this clause shall not be applicable to any rateable editament in which a dwelling-house shall not be included." t. 5. "When an owner who has become liable to pay the poor omits or neglects to pay, before the fifth day of June in any r, any rate or any instalment thereof which has become due pre-usly to the preceding fifth day of January, and has been duly anded by a demand-note delivered to him or left at his usual or known place of abode, he shall not be entitled to deduct or re-e any commission, abatement or allowance to which he would, ept for such omission or neglect, be entitled under this act, but ll be liable to pay, and shall pay, such rate or instalment in full." *rivileges of Occupiers and Owners.*] By sect. 1, "The occupier any rateable hereditament let to him for a term not exceeding ee months, shall be entitled to deduct the amount paid by him in pect of any poor rate assessed upon such hereditament from the

32 & 33 Vict. c. 41.

rent due or accruing due to the owner, and every such paymen be a valid discharge of the rent to the extent of the rate so By sect. 2, "No such occupier shall be compelled to pay overseers at one time or within four weeks a greater amount rate than would be due for one quarter of the year." By s "Every payment of a rate by the occupier, notwithstandi amount thereof may be deducted from his rent as herein pr and every payment of a rate by the owner, whether he is h rated instead of the occupier, or has agreed with the occup with the overseers to pay such rate, and notwithstandin allowance or deduction which the overseers are empowered to from the rate, shall be deemed a payment of the full rate occupier for the purpose of any qualification or franchise, wh regards rating depends upon the payment of the poor rate." sect. 8, "Where an owner who has undertaken, whether by ment with the occupier or with the overseers, to pay the poor or has otherwise become liable to pay the same, omits or negl pay any such rate, the occupier may pay the same, and dedu amount from the rent due or accruing due to the owner, an receipt for such rate shall be a valid discharge of the rent t extent of the rate so paid." By sect. 9, "Every owner who a with the overseers to pay the poor rate, or who is rated or liab be rated for any hereditament instead of the occupier, shall d to the overseers, from time to time, when required by them writing, a list containing the names of the actual occupiers hereditaments comprised in such agreement, or for which he rated or liable to be rated;—and if any such owner wilfully to deliver such list when required to do so, or wilfully omits th from or misstates therein the name of any occupier, he shall every such omission or misstatement, be liable, on summary con tion, to a penalty not exceeding two pounds" [recovered as Off 9—12, Vol. I. p. 682, tit. "*Poor*"].

Matters to be inserted in Rates.] By sect. 14, "The overseers every parish, when they make a poor rate, shall set forth in title of the rate the period for which the same is estimated, an the same is payable by instalments, the amount of each instalm and the date at which each instalment is payable;—provided th the necessities of the parish shall require it, another rate may made before such period shall have elapsed." By sect. 15, "I overseers who make the poor rate for a period exceeding th months may declare that the same shall be paid by instalment such times as they shall specify, and thereupon each instalm only shall be enforceable as and when it falls due, and the payme of any such instalment shall, as respects any qualification or fra chise depending upon the payment of the poor rate be deemed payment of such rate in respect of the period to which such ins

applies." By sect. 19, "The overseers, in making out the rate, shall, in every case, whether the rate is collected from wner or occupier, or the owner is liable to the payment of the instead of the occupier, enter in the occupiers' column of the book the name of the occupier of every rateable hereditament, uch occupier shall be deemed to be duly rated for any quali- on or franchise as aforesaid;—and if any overseer negligently ilfully and without reasonable cause omits the name of the ier of any rateable hereditament from the rate, or negligently ilfully misstates any name therein, such overseer shall for such omission or misstatement, be liable, on summary convic- to a penalty not exceeding two pounds [recovered as Offences 2, Vol. I. p. 682, tit. "*Poor*"];—provided that any occupier e name has been omitted shall, notwithstanding such omission, that no claim to be rated has been made by him, be entitled to qualification and franchise depending upon rating, in the manner as if his name had not been so omitted." 32 & 33 Vict. c. 41.

tle of Rate, and Publication.] See hereon sects, 17, 18, in tit. *tes*," *post*.

VII. *Allowance and Excusal of Rates.*

llowance of Rates.] By two or more justices in counties (43 . c. 2, s. 1), or mayor of boroughs, towns, or places corporate cities (s. 8); but where a parish comprehends part of a borough part of the county, the allowance should be by a justice of the ity and of the borough (*R.* v. *Gordon*, 1 B. & Ald. 524). The rance of a rate is a mere ministerial act (*R.* v. *Justice of Dorset-*, 1 Stra. 339), and cannot be refused if the rate be good on the of it (*R.* v. *Godolphin*, 13 L. J. (N. S.) M. C. 57; 1 Dowl. & L. . Cas. 830), and the justices may sign separately, the 32 & 33 c. 41, s. 17, admitting of their doing so; and see sect. 18, tit. *tes*," *post*, as to evidence of making and publication of rates. "The Union Assessment Committee Act, 1862," 25 & 26 Vict. 03, s. 23, the overseers are required to produce to the justices, n application for the allowance of a poor rate, the valuation list roved by the union assessment committee [or a fair copy of it ed by three members of the committee and countersigned by r clerk, 31 & 32 Vict. c. 122, s. 30, or a certified copy if original uch signed copy is lost, Id. s. 31], and before the rate is allowed the justices the churchwardens and overseers, or a majority of m, are to sign a declaration in the form given in the schedule, tead of that provided by 6 & 7 Will. 4, c. 96, s. 2 (ss. 28, 43; *Reg.* *Fordham*, 11 Ad. & Ell. 73; *Reg.* v. *Painter*, 16 L. J. (N. S.) M. 136; *Re Eastern Counties Railway, &c.*, 24 L. J. (N. S.) M. C. 49; . v. *Earl of Yarborough*, 12 Ad. & Ell. 416). 43 Eliz. c. 2.

The form of allowance of the rate may be as follows:—

County of ——, to wit. } We, two of her Majesty's justices of the p
and for the county of ——, do consent and a
the foregoing assessment. Witness our hands this —— day o
187—.

[Or if allowed separately alter the dates of allowance according

VIII. *The Divided Parishes and Poor Law Amendment Act.*

39 & 40 Vict. c. 61.

"The Divided Parishes and Poor Law Amendment Act. 1
39 & 40 Vict. c. 61, recites that many parishes in Englar
divided, and some unions are formed in a manner which r
their arrangements inconvenient; and that other unions a
large in extent for the purposes of the relief of the poor, and
local administration, and that it is expedient that provision s
be made for remedying these inconveniences. It then proc
provide as follows:—

Division of Parishes.

Local Government Board may make provision for divided Par
Sect. 1 enacts, that where any parish shall be divided so as to
its parts or any of them isolated in some other parish or par
or otherwise detached, the local government board may, after
inquiry, make an order to take effect at a certain period, eith
constituting separate parishes out of the divided parish, or for a
gamating some of the parts thereof with the parish or parish
which the same may be locally included or to which they m
annexed.

Objections by one-tenth of the Ratepayers.] By sect. 2, if one-t
in number and rateable value of the persons appearing on the
in force for the time being to be rated shall give notice to the
government board of objection, the order is to be deemed a
visional order only, which is to require confirmation by an a
parliament.

State of Parishes after new Order.] By sect. 3, from and after
25th of March next ensuing the day when such order, if not obje
to, is to take effect, and, in the case of a provisional order,
ensuing the date of the act of parliament confirming the same.
several parts of every parish to which such order applies is t
and continue to be constituted in manner directed by such or
and the officers of the several parishes affected thereby are t
empowered and required to act as if such parish had been constit
in the manner directed prior to the issue of such order.

Ecclesiastical Divisions and Municipal Boundaries not to be affe
Sect. 4 provides, that nothing contained in the act shall appl
the ecclesiastical division of parishes, nor to the constitution
school districts without the sanction of the Education Departm

o alter the boundaries of any municipal borough; and that 39 & 40 Vict. c. 61.
he purposes of the election of members of parliament and of esses in municipal boroughs, of the jury lists, of the action of es and of the police and constables, the parishes are to con- and be deemed unaltered until new lists are made and new ables are appointed.

rision for Highway District.] By sect. 5, where a parish ted by the order is included in a highway district, its con- n therein and the appointment of the waywarden is to be ged according to the terms of the order, whether its area or nts be diminished or increased thereby.

erseers to be appointed for the Parish so created.] The 6th on provides that every parish so constituted shall be a parish which an overseer shall be appointed, and for all other lay and purposes to which a parish may be liable or entitled; and it ides also for the constitution of a vestry of such parish.

rision for Compensation.] Sect. 7 provides for compensation y person deprived of any office or employment, or who suffers ninution of profits by reason of the act.

djustment to be made of Property and Debts.] Sect. 8 also pro- for the adjustment of the property and debts and liabilities e parishes among the several parts thereof according to the ations caused by the order.

dowments for Benefit of divided Parish not to be affected.] Sect. 9 ides that nothing is to affect any right, &c. over any charitable wment applicable for the benefit of a divided parish.

Poor Law Amendments.

usbands and Wives in Workhouses.] By sect. 10, when any two ons, being husband and wife, shall be admitted into any work- se, and either of them shall be infirm, sick, or disabled by any ry, or above the age of sixty years, the guardians in their dis- ion may permit such husband and wife to live together; and y such case is to be reported forthwith to the local government rd.

ocal Government Board under certain Circumstances may dissolve nion.] By sect. 11, the local government board, where it ap- s to them to be expedient for rectifying or simplifying the s of management or otherwise for the better administration he relief of the poor, that any union should be dissolved, may, the manner pointed out in the section, proceed to dissolve the e.

Division of Parish into Wards for Election of Guardians.] By . 12, the local government board may by their order divide parish into wards for the election of guardians, and may ermine the number of guardians to be elected for every such

39 & 40 Vict. c. 61.

ward; and each such ward is, for the purposes of the election, to be deemed a separate parish, except so far as the board may order.

Change of Name of Union.] Sect. 13 empowers the local government board to change the name of any union.

Persons who have received Parish Relief within the Year not to vote at Election of Guardians.] Sect. 14 provides that persons in receipt of relief to himself, his wife or child within the year shall not vote at the election of guardians.

Guardians of Unions, &c., may pay for information required for the effectual Discharge of their Duties.] Sect. 15 enables the guardians of any union or parish, or the board of overseers incorporated under a local act, to pay the reasonable expenses incurred in the preparation and collection of information required by them respecting any matter which is submitted to their management, &c. out of the common fund.

The 7 & 8 Vict. c. 101, s. 25, extended.] By sect. 18, the provision of the 25th section of "The Poor Law Amendment Act, 1844," relating to relief, whereby relief to a woman whose husband appears to be beyond the seas, is to be given to her in the same manner and subject to the same conditions as if she were a widow, is to apply to a married woman living separate from her husband.

Provisions against Persons who desert their Families.] By sect. 19, proceedings may be taken against any person who runs away and leaves his wife or his or her child chargeable, or whereby she or they or any of them shall become chargeable to any union or parish at any time within two years after the commission of the offence, and a summons or warrant in respect thereof may be issued upon the information of any relieving officer of the guardians, stating that relief has been applied for on behalf of the wife or child, and that he is informed and believes that the husband or parent, as the case may be, has left the wife or child and gone away.

Jurisdiction of Justices to make Orders on Husband of a Lunatic.] By sect. 20, where an order upon the husband of a lunatic to contribute towards her maintenance is sought to be obtained under sect. 5 of "The Poor Law Amendment Act, 1850," the justices having jurisdiction in the union or parish, the guardians whereof make the application, shall be empowered to issue the summons and make the order instead of the justices having jurisdiction in the place where he may dwell.

Extension of the 7 & 8 Vict. c. 101, s. 56.] The 21st section enacts, that the provision as to the registration of births and deaths in a workhouse, contained in the 56th section of "The Poor Law Amendment Act, 1844," is to be extended to the case of a workhouse which is situated in two parishes, so that the registration shall take place in the parish to which the workhouse belongs, or, if the parishes be not both in the same union, then in the parish of

nion to which the workhouse belongs, in which any part of 39 & 40 Vict. c. 61.
orkhouse is situated. And where a union is comprised in
chool or other district, the death of any pauper in the school
ylum of such district is, for the purposes of burial, to be
ed to have taken place in the parish of the union from which
pauper was sent to the said school or asylum, or to the work-
e of the union as the case may be, and the charges of the
l are to be borne by the common fund of the union.

tension of the 12 & 13 *Vict. c.* 103, *s.* 14.] The 22nd section
ts, that the 14th section of "The Poor Law Amendment Act,
," shall be extended to the managers of a district or other
m for the reception of paupers, and to every case where the
government board shall deem it expedient and shall give their
ent.

*rustees may pay Cost of Pauper's Relief out of Annuity payable
ch Pauper.*] Sect. 23 enacts, that where any pauper shall be
led to any annuity or periodical payment, the trustee or other
on bound to make payment of the same to the pauper may
time to time pay to the board of guardians of any union, &c.
of the instalments which have become due the cost incurred in
relief of such pauper accrued since the last instalment; and
payment is to be a legal discharge to such trustee for so much
ey as shall have been so paid. 140

There the guardians incur any expenses in the relief of a pauper
atic, being a member of a benefit or friendly society, and as
h entitled to receive any payment, they may recover from him
debt, or from his executors, administrators or assigns in case

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140 By sect. 1 of the 42 Vict. c. 12, it is enacted that—

"1. *The Provisions of s.* 23 *of* 39 & 40 *Vict. c.* 61 *not to apply to Moneys which a Pauper or Pauper Lunatic may be entitled as a Member of Friendly Benefit Society.*]—The provisions contained in the twenty-third section the Divided Parishes and Poor Law Amendment Act, 1876, shall not ly to any moneys which a pauper or pauper lunatic having a wife or er relative dependent upon him for maintenance may be entitled to eive as a member of any friendly or benefit society, but such moneys ll, subject to any deductions for keeping up his membership required the rules of such society or any branch thereof, from which such uper or pauper lunatic is entitled to receive such moneys, be paid or plied by the trustees, committee, or other officers of such society or nch to or for the maintenance of such wife or relative; and where a uper or pauper lunatic having no wife or relative so dependent upon m is entitled to any such moneys, no claim shall be made under the id act by the guardians of any union or parish upon any such society which he is a member, or against any branch thereof, for the expenses curred in his relief, unless and until the guardians or their relieving ficer shall have declared the relief to be given on loan, and shall have, ithin thirty days thereof, notified the same in writing to the secretary trustees of the society or branch of which the pauper or pauper lunatic a member, and as such entitled to receive any payment.

"2. *Short Title.*] This act may be cited as the Poor Law Amendment ct, 1879."

39 & 40 Vict. c. 61.

of his death, the sum so expended by them as aforesaid, a managing body of such society, after notice from the clerk guardians served previously to the money being paid ove required to pay the same to such guardians, and are to be exon on payment from any further liability.

Where any of the above parties decline to make any such ment, the guardians may apply to justices in petty session may, if satisfied that it is right to do so, make an order to p requisite amounts to the guardians at once, and to pay fron to time in future as the liability in respect of relief arises.

Provided, that this clause is not to have effect unless and un guardians or their relieving officer shall have declared the rel be given on loan, nor in respect of any relief granted contr the rules and orders made under the authority of the statu that behalf.

Costs in Bastardy.] By sect. 24, in any proceedings b guardians of the poor under the 36 Vict. c. 9, for obtainin order upon the putative father of a bastard child, the ju making the order may award costs to and against the parti like manner and to the like effect as in the case of orders fo payment of money made under the 11 & 12 Vict. c. 43.

Recovery of Costs of Guardians of a Parish.] By sect. 25 guardians of a parish are placed upon the same footing, as re obtaining the costs of orders of maintenance, as the guardia a union under the 11 & 12 Vict. c. 110.

Provisions for Pauper Lunatics sent from Boroughs to Lic Houses and Registered Hospitals.] Sect. 26 enacts provision respect of the charge of maintenance of a pauper lunatic, from any part of a borough wholly or partly comprised with union or parish, to a licensed house or registered hospital.

Repeal of Sect. 1 *of the* 56 *Geo.* 3, *c.* 139.] Sect. 27 repeals 1st section of the 56 Geo. 3, c. 139, relating to the bindin parish apprentices.

Boys in receipt of Relief, who are desirous of it, may be forw by the Guardians for Examination for the Naval Service.] By 28, if any boy not already in the merchant service who, or w parent or parents shall be receiving relief, be desirous of serv in the naval service, and be forwarded for approval by compe authority for such service, the guardians may enable any such to be so forwarded, and may pay out of their funds such sum may be required by the regulations of such service for provid outfit or otherwise, and also such expenses as may be necessary be incurred for the conveyance of such boy in charge of a pr person to and from the port or place at which he may be requi to attend for examination, and, if accepted, for entry into su service.

Balances of outgoing Overseers.] The 29th section provides for the discharge of the balances due to outgoing overseers. 39 & 40 Vict. c. 61.

Repeal of Exemption of Corporate Property.] The 30th section repeals so much of the 4 & 5 Vict. c. 48, as exempts the property of municipal corporations from being rated in the cases therein mentioned.

Broker's Charges.] By sect. 31, it is enacted, that in all cases where a warrant of distress is issued for the recovery of a poor rate, the person against whom the same is issued is to be liable to pay the cost of such warrant, and of the broker or other officer for his attendance to make the levy, although such person may tender the amount of the rate before the levy is made.

Justices to make Allowances to Clerks of Justices in respect of Jury Lists.] By sect. 32, the justices in quarter sessions are to make allowances, as compensation, to the clerks to the justices in the several divisions for their services in relation to the revision and allowance of the jury lists.

Appointment by Guardians of Visiting Officer.] The 33rd section authorizes the guardians or the managers of any district school to appoint and pay any officer to visit and report upon the condition, treatment and conduct of any poor child under the age of sixteen, who shall have gone into service from the workhouse, or from such district school.

III. *The Law of Settlement.*

Settlement by Residence.] By sect. 34, where any person shall have resided for the term of three years in any parish in such manner and under such circumstances in each of such years as would render him irremovable, he is to be deemed settled therein until he shall acquire a settlement in some other parish by a like residence or otherwise; provided that an order of removal, in respect of a settlement acquired under this section, is not to be made upon the evidence of the person to be removed, without such corroboration as the justices or court think sufficient.

Abolition of Derivative Settlements.] By sect. 35, no person is to be deemed to have derived a settlement from any other person, whether by parentage, estate or otherwise, except in the case of a wife from her husband, and in case of a child under sixteen, which child shall take the settlement of its father or of its widowed mother, as the case may be, up to that age, and shall retain the settlement so taken until it shall acquire another; and an illegitimate child is to retain the settlement of its mother until it shall acquire another settlement. If any child shall not have acquired a settlement for itself, or, being a female, shall not have derived a settlement from her husband, and it cannot be shown what settlement such child or female derived from the parent without inquir-

39 & 40 Vict. c. 61.

ing into the derivative settlement of such parent, such ch female is to be deemed to be settled in the parish in which she was born.

Sect. 36 contains a provision for pending orders of removal.

Sect. 37 provides that rates made by overseers, not now au shall for the future be subject to the audit of the district and

Sect. 38 provides for an appeal to the local government against the decision of the auditor in allowing, disallowin surcharging a sum in any account rendered to him jointly.

Sect. 39 applies to voting papers for guardians.

The remaining sections apply to a few matters of detail nected with the metropolis and the inns of court.

The allowance must be at the end of the rate (*In re Justi North Staffordshire*, 23 L. J. (N. S.) M. C. 17; 22 Law T. 136

17 Geo. 2, c. 3.

Publication of Rate.] This is on the next Sunday after the a ance (17 Geo. 2, c. 3, s. 1); but the notice of the allowance nee be signed by the parish officers (*Barnley* v. *Methley*, 28 L. J. (N M. C. 152; 33 Law T. 132).

54 Geo. 3, c. 170.

Excusing Rates.] Two justices, on application of person r may, on proof of inability through poverty to pay, and with co of the parish officers, order such person to be excused (54 Ge c. 170, s. 11.141 [Forms of Orders, Nos. 70, 71, p. 915. ("*Formulist*," 6th ed.]

POST OFFICE.

1 Vict. c. 36.

Recovery of Postage.] Not exceeding £20 from any person from any deputy, agent, or letter carrier, or any other person ployed in receiving or collecting the postage of letters or any of post office revenue, or from the sureties of any such last-menti person, before one justice. Summons; distress warrant; in de of sufficient distress, imprisonment in the prison of the place u debt and expenses paid (1 Vict. c. 36, s. 43).

Recovery of Postage of rejected Letters.] From the sender, above mentioned (10 & 11 Vict. c. 85, ss. 12, 13, 14).

PRISON ACTS.

These are the 28 & 29 Vict. c. 126, and the 29 & 30 Vict. c. 10

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141 The practice adopted by some parish officers of making out a l of persons to be excused, and obtaining the signature of two justi thereto, is illegal, although done with a view of saving the poor pers the fees of the justices' clerk on each person's application (see Poor L Commissioners' Report on Local Taxation, pp. 60, 61). The applicati of the party need not necessarily be made until the overseers attempt enforce the rate.

PRISONS.

e Prison Act, 1877 (40 & 41 Vict. c. 21), entitled "An Act to d the law relating to Prisons in England," whilst it confers the government the property and the general management of ols in England, still retains to the magistracy certain powers pervision and inspection, which they are to exercise as visiting ittees. The only portion, therefore, of the statute which be noticed in these pages are the following sections:— 40 & 41 Vict. c. 21.

3. *Appointment of Visiting Committee of Prisons.*] On and after ommencement of this act there shall be repealed the fifty-third fifty-fourth sections of the Prison Act, 1865, relating to the intment and duties of visiting justices.

A visiting committee shall be annually appointed for every n under this act, consisting of such number of persons being ces of the peace to be appointed at such time and by such of quarter sessions or such bench or benches of magistrates he secretary of state, having regard to the locality of the n, to the justices heretofore having jurisdiction over such n, and to the class of prisoners to be confined in such prison, from time to time by any general or special rule prescribe. he following manner; namely,

The justices of any county, riding, or liberty of a county ng a separate court of quarter sessions shall appoint members visiting committee when assembled at such general or quarter ions as may be prescribed by the secretary of state.

The justices of a borough shall hold special sessions, at such as may be prescribed by the secretary of state, for the pose of appointing any members of a visiting committee they be required to appoint.

Provided that in the application of this act to the Worcester on, as constituted by the Worcester Prison Act, 1867, so long he said prison is continued as a prison for the purposes of this the appointment of such number of justices of the city of rcester as the secretary of state in pursuance of this section may scribe to be appointed to serve on the visiting committee in pect of the said prison, shall be vested in the corporation acting the council of the said city.

'Nothing in this act, or in any rules to be made under this act, ll restrict any member of the visiting committee for any prison n visiting the prison at any time, and any such member shall ll times have free access to every part of the prison, and to ry prisoner therein.

'14. *Duties of Visiting Committee.*] The secretary of state shall, or before the commencement of this act, make and publish, and y hereafter from time to time repeal, alter, or add to rules with

41 & 42 Vict. c. 22. respect to the duties of a visiting committee, and such com shall conform to any rules so made and for the time being in but subject as aforesaid the members of such committee shall time to time and at frequent intervals visit the prison for they are appointed, and hear any complaints which may be to them by the prisoners, and, if asked, privately. They report on any abuses within the prison, and also on any r which may be urgently required in the prison, and shall fu take cognizance of any matters of pressing necessity and w the powers of their commission as justices, and do such act perform such duties in relation to a prison as they may be req to do or perform by the secretary of state.

"The visiting committee shall be deemed to be visiting ju for all the purposes of the regulations relating to the punish of prisoners numbered 58 and 59 in the first schedule annex the Prison Act, 1865, or either of such regulations, and member of a visiting committee may exercise any power, or do act, or receive any report which any one justice may exercise or receive under the said regulations numbered 58 and 5 either of them.

"Provided that an offender shall not be punished under the sections 58 and 59, or either of them, by personal corre except in pursuance of the order of two justices of the peace such inquiry upon oath and determination concerning the ma reported to them as is mentioned in the said regulation numb 58.

"The visiting committee shall report to the secretary of s any matters with respect to which they may consider it expedi and shall report to the secretary of state, as soon as may be an such manner as he may direct, any matter respecting which t may be required by him to report.

"15. *Visits to Prison by any Justice.* Section fifty-five of "T Prisons Act, 1865," is hereby repealed, and instead thereof following enactment shall take effect, viz.:

"Any justice of the peace, having jurisdiction in the place which a prison is situate, or having jurisdiction in the place wh the offence in respect of which any prisoner may be confined prison was committed, may, when he thinks fit, enter into a examine the condition of such prison, and of the prisoners there and he may enter any observations he may think fit to make reference to the condition of the prison or abuses therein in t visitors' book to be kept by the gaoler; and it shall be the duty the gaoler to draw the attention of the visiting committee, at the next visit to the prison, to any entries made in the said book; bu he shall not be entitled, in pursuance of this section, to visit an prisoner under sentence of death, or to communicate with an

soner, except in reference to the treatment in prison of such soner, or to some complaint that such prisoner may make as to h treatment." 40 & 41 Vict. c. 21.

PRIZE FIGHTS.

l prize fight is a breach of the peace, and all persons present reat, and who have gone there for the purpose of seeing it, are acipals, and indictable for a misdemeanor (*R.* v. *Perkins*, . & P. 537). It is laid down that magistrates should cause the nded combatants [if resident or within their jurisdiction at the e of the application for the warrant, 11 & 12 Vict. c. 42, s. 1, *k*, pp. 873, 891], to be brought before them, and bind them over keep the peace till the next sessions or assizes (*R.* v. *Billingham*, & P. 234; 4 Dow. & R., Mag. Cas. 127), 142 but if they do not erfere till after the fight is over, they (*i. e.*, the justices where it k place) may then issue their warrant for the assault and breach he peace against any of the parties concerned, and commit them trial or hold them to bail to answer the charge at the sessions assizes in the ordinary way as with any other indictable offence ffence 445, *ante*, p. 1156). By 31 & 32 Vict. c. 119, s. 21, a ıvy penalty is imposed on railway companies for providing trains conveying persons to prize fights, which is recoverable before o justices. See tit. "*Railways*," in Vol. I. p. 723, Offence 28.

PUBLIC HEALTH.

"The Public Health Act, 1875" (38 & 39 Vict. c. 55), in repeal- all the previous statutes upon the subject (except so far as they ate to the Metropolis), has, for the most part, confided to the al authorities therein named and constituted, the obligation of ing its multifarious provisions carried into effect; and hence, e duty of the magistracy, except in special matters, is confined that which appertains to them under the enactment of the & 12 Vict. c. 43. It is with reference to these special matters me that it will be necessary in this place to draw particular tention, and, as to them, it will be convenient that they should arranged under the following sections:— 38 & 39 Vict. c. 55.

I. *As to Legal Proceedings.*
II. *As to Sewers and Drains.*
III. *As to Offensive Ditches and Collections of Matter.*
IV. *As to Power to close Polluted Wells, &c.*
V. *As to Abatement of Nuisances.*
VI. *As to Offensive Trades.*

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142 *Vide* tit. "*Sureties*," *post*; Forms of Complaint, &c., Oke's "*Formist*," 6th ed. p. 956.

VII. *As to Unsound Meat, &c.*
VIII. *As to Mortuaries.*
IX. *As to Arbitration.*
X. *As to Entry on Land for the purposes of the Act.*

I. *As to Legal Proceedings.*

Prosecution of Offences and Recovery of Penalties.] All off under the act, and all penalties, forfeitures, costs and exp under it directed to be recovered in a summary manner, o recovery of which is not otherwise provided for, may be p cuted and recovered in manner directed by the Summary J diction Acts (11 & 12 Vict. c. 43), and the Court of Sum Jurisdiction when hearing and determining an informatio complaint under the act is to be constituted of two or more jus in petty sessions sitting at a place appointed for holding p sessions, or of some magistrate or officer for the time being powered by law to do alone any act authorized to be done by than one justice sitting at some court or other place for administration of justice (s. 251).

General Provisions as to Summary Proceedings.] Any compl or information made or laid in pursuance of the act is to be mad laid within six months from the time when the matter of such c plaint or information respectively arose (s. 252). The descrip of any offence under the act in the words of the act is to be suffic (s. 252).

Restriction on the Recovery of Penalties.] Proceedings for recovery of any penalty under the act are not, except as in the is expressly provided, to be had or taken by any person other t by a party aggrieved, or by the local authority of the district which the offence is committed, without the consent in writing the attorney-general: Provided that such consent is not to be quired to proceedings which are by the provisions of the act relat to nuisances or offensive trades, authorized to be taken by a l authority in respect of any act or default committed or taking pl without their district, or in respect of any house, building, ma factory or place situate without their district (s. 253).

Application of Penalties.] Where the application of a penalty not otherwise provided for, one half is to go to the informer and t remainder to the local authority of the district in which the offe was committed: Provided that if the local authority are the i former, they are to be entitled to the whole of the penalty recover and all penalties or sums recovered by them on account of a penalty are to be paid over to their treasurer, and are by him to b carried to the account of the fund applicable to the general purpo of the act (s. 254).

utices may act though Members of Local Authority or liable to ribute.] No justice is to be deemed incapable of acting in cases ing under the act by reason of his being as one of several payers or as one of any other class of persons liable in common others to contribute to, or to be benefited by, any rate or fund of which any expenses incurred by such authority are under the to be defrayed (s. 258). 38 & 39 Vict. c. 55.

ppearance of Local Authority in Legal Proceedings.] Any local hority may appear before any court or in any legal proceedings their clerk, or by any officer or member authorized generally or espect of any special proceeding by resolution of such authority, their clerk or any other officer or member so authorized is to be iberty to institute and carry on any proceeding which the local hority is authorized to institute and carry on under the act 259).

Proceedings not be quashed for want of Form.] No rate, order, viction, or thing made or done relating to the execution of the is to be vacated, quashed or set aside for want of form or (unless erwise expressly provided for) to be removed or removable by *ioorari* or any other writ or process into any of the superior courts: vided that nothing is to prevent the removal of any case stated the opinion of a superior court, or of any rate, conviction, or ng to which such special case relates (s. 262).

Appeal to Quarter Sessions.] A right of appeal is given to any rson who deems himself aggrieved by any rate, made under the visions of the act, or by any order, conviction, judgment, or termination of, or by any matter or thing done by any court of mmary jurisdiction (s. 269). See the conditions of the appealing out in Vol. I. p. 700.

II. *As to Sewers and Drains.*

By sect. 22, the owner or occupier of any premises without the strict of a local authority may cause any sewer or drain from such emises to communicate with any sewer of the local authority, on ch terms and conditions as may be agreed on between such owner occupier and such local authority, or, as in case of dispute, may settled at the option of the owner or occupier by a court of summary jurisdiction or by arbitration in manner provided by the act.

III. *As to Offensive Ditches and Collections of Matter.*

Provision for obtaining Order for cleansing Offensive Ditches lying ear to or forming the Boundaries of Districts.] Where any watercourse or open ditch lying near to or forming the boundary between he district of any local authority and any adjoining district is foul nd offensive so as injuriously to affect the district of such local uthority, any justice having jurisdiction in such adjoining district

38 & 39 Vict. c. 55.

may, on the application of such local authority, summon the authority of such adjoining district to appear before a court of mary jurisdiction to show cause why an order should not be by such court for cleansing such watercourse or open ditch, an executing such permanent or other structural works as may ap to such court to be necessary; and such court after hearing parties, or *ex parte* in case of the default of any of them to ap may make such order with reference to the execution of the w and the persons by whom the same are to be executed, and by w and in what proportion the costs of such works are to be paid, also as to the amount thereof and the time and mode of payme to such court shall seem reasonable (s. 48).

IV. *As to Power to close Polluted Wells, &c.*

On the representation of any person to any local authority within their district the water in any well, tank, or cistern, publ private, or supplied from any public pump, and used or likely used by man for drinking or domestic purposes or for manufact drinks for the use of man, is so polluted as to be injurious to he such authority may apply to a court of summary jurisdiction fo order to remedy the same; and thereupon such court is to sum the owner or occupier of the premises to which the well, tan cistern belongs, if it be private, and in the case of a public tank, cistern or pump, any person alleged in the application interested in the same, and may either dismiss the applicati may make an order directing the well, tank, cistern or pump permanently or temporarily closed, or the water to be used for tain purposes only, or such other order as may appear to them requisite to prevent injury to the health of persons drinking water.

The court may, if they see fit, cause the water complained o be analyzed at the cost of the local authority applying to them u this section.

If the person on whom such an order is made fails to comply the same, the court may, on the application of the local auth authorise them to do whatever may be necessary in the execut the order, and any expenses incurred by them may be recover a summary manner from the person on whom the order is m (s. 70).

V. *As to Abatement of Nuisances.*

Local Authority to serve Notice requiring Abatement of a Nuisa Upon the receipt of any information respecting the existence nuisance, the local authority, if satisfied of the existence of nuisance, is to serve a notice requiring the abatement thereof wi the time specified, and to execute such works and do such thin may be necessary for the purpose (s. 94).

s Non-compliance, Complaint to be made to a Justice.] If the 38 & 39 Vict. c. 55.
on on whom the notice to abate a nuisance has been served
es default in complying with any of the requirements thereof
in the time specified, or if the nuisance, although abated since
service of the notice, is, in the opinion of the local authority,
ly to recur on the same premises, the local authority are to cause
mplaint to be made before a justice, and such justice is there-
n to issue a summons requiring the person on whom the notice
served to appear before a court of summary jurisdiction (s. 95).
ower of the Court to make an Order dealing with the Nuisance.]
he court is satisfied that the alleged nuisance exists, or that,
ough abated, is likely to recur on the same premises, the court
make an order on such person, requiring him to comply with all
ny of the requisitions of the notice, or otherwise to abate within
me specified in the order, and to do any works necessary for that
pose; or an order prohibiting the recurrence of the nuisance and
cting the execution of any works necessary to prevent the recur-
ce; or an order both requiring abatement and prohibiting the
rrence of the nuisance.

he court may, by their order, impose a penalty not exceeding £5
the person on whom the order is made, and give directions as to
payment of all costs incurred up to the time of the hearing or
king the order for abatement or prohibition of the nuisance (s. 96).

rder of Prohibition in case of House unfit for Human Habitation].
ere the nuisance proved to exist is such as to render a house or
lding in the judgment of the court unfit for human habitation, the
rt may prohibit the using thereof for that purpose until in its
lgment the house or building is rendered fit for that purpose; and
the court being satisfied that it has been rendered fit for that
rpose, it may determine its previous order by another declaring
house or building habitable, and from the date thereof such house
building may be let or inhabited (s. 97).

Penalty for contravening Order.] A penalty is imposed for non-
edience to the order of the court (s. 98).

Appeal against Order.] A right of appeal is given against any
ch order (s. 99).

Power of Entry under an Order.] By sect. 102, the local authority
any of their officers are to be admitted into any premises
r the purpose of examining as to the existence of any nuisance
ereon, or for the purpose of seeing that any order of abatement, &c.
carried out, or to abate the same; and if admission for any of such
rposes is refused, any justice, on complaint thereof on oath by any
icer of the local authority (made after reasonable notice in writing
the intention to make the same has been given to the person
ving custody of the premises), may, by order under his hand,
quire the person having custody of the premises to admit the local

38 & 39 Vict. c. 55.

authority or their officer into the premises during certain hours if no person having custody of the premises can be found, the ju is, on oath of the fact, by order under his hand, to authorize the authority, or any of their officers, to enter such premises during hours.

The order is to continue in force until the nuisance is abate the work for which the entry was necessary has been done (s.

Power of an Individual to complain to a Justice of a Nuis Complaint may be made to a justice of the existence of a nuis under this act on any premises within the district of any l authority by any person aggrieved thereby, or by any inhabita such district, or by any owner of premises within such district, thereupon the like proceedings are to be had with the like incid and consequences as to making of orders, penalties for disobedie of orders, appeal and otherwise, as in the case of a complaint rela to a nuisance made to a justice by the local authority: Prov that the court may, if it thinks fit, adjourn the hearing of summons for an examination of the premises where the nuisanc alleged to exist, and may authorize the entry into such premise any constable or other person for the purpose of such examinati Provided, also, that the court may authorize any constable or ot person to do all necessary acts for executing an order made un this section, and to recover the expenses from the person on wh the order is made in a summary manner.

Any constable or other person authorized under this section is have the like powers and be subject to the like restrictions as if were an officer of the local authority authorized under the provisi of this act relating to nuisances to enter any premises and do a acts thereon (s. 105).

VI. *As to Offensive Trades.*

Duty of Urban Authority to complain to a Justice of a Nuisa arising from an Offensive Trade.] Where any candle-house, melting house, melting-place or soap-house, or any slaughter-house, or an building or place for boiling offal or blood, or for boiling, burni or crushing bones, or any manufactory, building or place used any trade, business, process or manufacture causing effluvia, certified to any urban authority by their medical officer of health, by any two legally qualified medical practitioners, or by any te inhabitants of the district of such urban authority, to be a nuisance or injurious to the health of any of the inhabitants of the district such urban authority are to direct complaint to be made before a justice, who may summon the person by or on whose behalf the trade so complained of is carried on to appear before a court of summary jurisdiction.

The court is to inquire into the complaint, and if it appears to

n that the business carried on by the person complained of is a 38 & 39 Vict.
ance or causes any effluvia which is a nuisance or injurious to c. 55.
lth of any of the inhabitants of the district, and unless it be
wn that such person has used the best practicable means for
ting such nuisance or preventing or counteracting such effluvia,
person so offending (being the owner or occupier of the pre-
es, or being a foreman or other person employed by such owner
occupier) is to be liable to a penalty not exceeding £5 nor less
n 40s., and on a second and any subsequent conviction to a
alty double the amount of the penalty imposed for the last
ceding conviction; but the highest amount of any such penalty
ot in any case to exceed £200.

Provided that the court may suspend its final determination on
dition that the person complained of undertakes to adopt, within
asonable time, such means as the court may deem to be practi-
le and order to be carried into effect for abating such nuisance,
nitigating or preventing the injurious effects of such effluvia, or
uch person gives notice of appeal to the court of quarter sessions
114).

VII. *As to Unsound Meat, &c.*

Power of Medical Officer of Health, &c. to inspect Meat, &c.] y medical officer of health or inspector of nuisances may at all asonable times inspect and examine any animal, carcase, meat, ultry, game, flesh, fish, fruit, vegetables, corn, bread, flour or lk exposed for sale or deposited in any place for the purpose of e or of preparation for sale and intended for the food of man, e proof that the same was not exposed or deposited for any such rpose, or was not intended for the food of man, resting with the rty charged; and if any such animal, &c. appears to such dical officer or inspector to be diseased or unsound or unwhole-me or unfit for the food of man, he may seize and carry away e same himself or by an assistant, in order to have the same alt with by a justice (s. 116).

Power of Justice to order Destruction of Unsound Meat, and to pose a Penalty.] If it appears to the justice that any animal, &c. seized is diseased or unsound or unwholesome or unfit for the od of man he is to condemn the same, and order it to be destroyed so disposed of as to prevent it from being exposed for sale or sed for the food of man; and the person to whom the same belongs did belong at the time of exposure for sale, or in whose posses-ion or on whose premises the same was found shall be liable to a enalty not exceeding £20 for every animal, carcase or fish, or piece meat, flesh or fish, or any poultry or game, or for the parcel of ruit, vegetable, corn, bread or flour, or for the milk so condemned; , at the discretion of the justice, without the infliction of a fine, to mprisonment for a term of not more than three months.

38 & 39 Vict. c. 55.

The justice who, under this section, is empowered to convi offender may be either the justice who may have ordered the a to be disposed of or destroyed, or any other justice having jur tion in the place (s. 117).

Although the foregoing section does not in express terms pr for the summoning of the offender to show cause why he sl not be dealt with for the offence, it is abundantly clear upon ciple that such a course should be pursued.

Search warrant may be granted by a Justice.] On complai oath by a medical officer of health, or by an inspector of nuis or other officer of a local authority, any justice may grant a wa to enter any building or part of a building in which such o has reason to believe that there is kept or concealed any an &c. which is intended for sale for the food of man, and is dis unsound or unwholesome or unfit for the food of man; a search for, seize and carry away any such animal or other artic order to have the same dealt with by a justice under the provi of the act (s. 119).

VIII. *As to Mortuaries.*

Justices may in certain cases order the removal of a Dead Body Mortuary.] Where the body of one who has died of an infec disease is retained in a room in which persons live or sleep, or dead body which is in such a state as to endanger the health of inmates is retained in such house or room, any justice may, certificate signed by a legally qualified medical practitioner, o the body to be removed, at the cost of the local authority, to mortuary provided by such authority, and direct the same to buried within a time to be limited in such order; and unless friends or relations of the deceased undertake to bury the b within the time so limited, and do bury the same, it is to be duty of the relieving officer to bury such body at the expens the poor rate; but any expense so incurred may be recovered the relieving officer in a summary manner from the person leg liable to pay the expense of such burial (s. 141).

IX. *As to Arbitration.*

In cases of dispute as to the amount of any compensation to made under the provisions of the act, it is enacted by section that all questions referable to arbitration under the act may, wh the amount in dispute is less than £20, be determined, at the opti of either party, before a court of summary jurisdiction; but t court may, if it thinks fit, require that any work in respect of wh the claim of the local authority is made and the particulars of t claim be reported on to them by any competent surveyor, n being the surveyor of the local authority; and the court may d

: the amount of costs incurred in that behalf, and by whom costs or any part of them shall be paid. 38 & 39 Vict. c. 55.

X. *Entry on Lands for the purposes of the Act.*

henever it becomes necessary for a local authority or any of their ers to enter, examine or lay open any lands or premises for the oses of making plans, surveying, measuring, taking levels, ing, keeping in repair or examining works, ascertaining the se of sewers or drains, or ascertaining or fixing boundaries, and owner or occupier of such lands or premises refuses to permit ame to be entered upon, examined or laid open for the purposes esaid or any of them, the local authority may, after written ce to such owner or occupier, apply to a court of summary juris-ion for an order authorizing the local authority to enter, nine and lay open the said lands and premises for the said poses.

no sufficient cause is shown against the application, the court make an order accordingly, and on such order being made, the l authority or any of their officers may at all reasonable times, reen the hours of nine in the forenoon and six in the afternoon, r, examine or lay open the lands or premises mentioned in such r for such of the said purposes as are therein specified, without g subject to any action for so doing: Provided that, except in of emergency, no entry is to be made or works commenced ess at least twenty-four hours' notice of the intended entry and he object thereof be given to the occupier of the premises in-led to be entered (s. 305).

For Forms under "The Public Health Act, 1875," see Oke's *ormulist*," 6th ed. pp. 345—348, and pp. 924—930.]

PUBLIC WORKS.

ocal boards of health may allow owners to repay expenses of rate improvement works (27 & 28 Vict. c. 104, s. 5), which would n be leviable as private improvement rates, and recoverable ore justices (see tits. "*Public Health* and "*Rates*," *post*). 27 & 28 Vict. c. 104.

QUARTER SESSIONS.

When holden in Counties, &c.] 11 Geo. 4 & 1 Will. 4, c. 70, s. 35, vides that the justices of the peace in every county, riding or ision for which quarter sessions ought to be held, are to hold ir general quarter sessions in the first full week [Sunday being med the first day of the week] after the 11th October; 28th cember, 31st March [but see *infra*]; and 24th June. As to the ster sessions, 4 & 5 Will. 4, c. 47, authorizes the justices at the 11 Geo. 4 & 1 Will. 4, c. 70.

Epiphany sessions to appoint two justices to fix them, so as [illegible] interfere with the assizes, such sessions not being earlier tha[illegible] 7th March, nor later than the 22nd April.

Dividing the Court.] See 21 & 22 Vict. c. 73, ss. 8—12.

5 & 6 Will. 4, c. 76. *When holden in Boroughs.*] To be held once in every quar[illegible] a year, or at such other or more frequent times as the recorder [illegible] think fit, or the Crown may direct 5 & 6 Will. 4, c. 76, s. 105 [illegible]

Jurisdiction of the Sessions over Crimes.] See *ante*, pp. 972.

QUEEN'S STORES.

See "*Naval Stores*" and "*War Department Stores.*"

RACECOURSES (METROPOLITAN).

See "*Metropolitan Racecourses.*"

RAILWAYS. 143.

I. *Correction of Errors, &c. in Plans, &c.*
II. *Consents of Justices to Deviations, Crossings, &c.*
III. *Disputes as to Fences, Tolls, Water or Gas Pipes, Dang[illegible] Trees, and Occupation of Roads and Lands.*
IV. *Repair of Roads, Bridges, &c. by Company.*
V. *Disputed Cases of Compensation for Lands taken or Da[illegible] done.*
VI. *Payment of Special Constables for Railways.*
VII. *Complaints against Officers of Railway Companies.*

I. *Correction of Errors, &c. in Plans, &c.*

8 & 9 Vict. c. 20. Sect. 7. By 8 & 9 Vict. c. 20, s. 7, if any omission, misstatement or er[illegible] neous description is made of any lands, or of the owners, [illegible] thereof, described on the plans or books of reference mentioned [illegible] the special act, the company, after giving ten days' notice to [illegible]

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143 The act of 8 & 9 Vict. c. 20, is "The Railways Clauses Con[illegible] dation Act, 1845," which applies "to every railway which shall by any [illegible] which shall hereafter [8th May, 1845] be passed be authorized to be [illegible] structed and this act shall be incorporated with such act" (s. 1). By sect. [illegible] the word "justice" shall mean a justice of the peace acting for the coun[illegible] city, borough, liberty, cinque port, or place where the matter requiring [illegible] cognizance of any such justice shall arise, and who shall not be interes[illegible] in the matter [see *Wakefield Local Board of Health* v. *West Riding* [illegible] *Grimsby Rail. Co.*, 35 L. J. (N. S.) M. C. 69; 13 Law T., N. S. 590] [illegible] and where such matter shall arise in respect of lands, being the property [illegible] one and the same party, situate not wholly in any one county, &c., [illegible] mean a justice acting for the county, &c. where any part of such lan[illegible] shall be situate, and who shall not be interested in such matter;—a[illegible] where any matter shall be authorized or required to be done by two ju[illegible] tices, the expression "two justices" shall be understood to mean tw[illegible] justices assembled and acting together.

ers of the lands affected by such proposed correction, may apply 8 & 9 Vict.
wo justices for the correction thereof;—and if it appear to such c. 20.
ices that such omission, misstatement or erroneous description
e from mistake, they shall certify the same accordingly, and in
r certificate state the particulars of any such omission, and in
t respect any such matter is misstated or erroneously de-
bed,—and such certificate is to be deposited with the clerks of
peace of the several counties and the parish clerks of the
ral parishes in which the lands affected thereby are situate:—
e kept by such clerks of the peace and parish clerks respec-
ly, along with the other documents to which they relate:—and
upon the plan, book of reference or schedule is to be deemed
e corrected according to such certificate;—and the company
r make the works in accordance with such certificate. See also
. 15 as to lateral deviations.

II. *Consents of Justices to Deviations, Crossings, &c.*

o Deviation from Levels.] By 8 & 9 Vict. c. 20, s. 11, in making Sect. 11.
railway the company cannot deviate from the levels of the rail-
y, as referred to the common datum line described in the section
roved of by parliament, and as marked on the same, to any
ent exceeding in any place five feet,—or, in passing through a
n, village, street or land continuously built upon, two feet,—
hout the previous consent in writing of the owners and occupiers
he land in which such deviation is intended to be made;—or in
e any street or public highway is affected by such deviation,
n the same is not to be made without the like consent of the
stees or commissioners having the control of such street or
blic highway,—or, if there be no such trustees or commissioners,
hout the like consent of two or more justices of the peace in
ty sessions assembled for that purpose, and acting for the
trict in which such street or public highway is situated (fourteen
ys' previous notice being given of such petty sessions in some
wspaper of the county, and affixed on the door of the parish
urch), or without the like consent of the commissioners for any
blic sewers, or the proprietors of any canal, navigation, gas-
rks or waterworks affected by such deviation:—provided always,
at the company may deviate from the said levels to a further
tent without such consent by lowering solid embankments or
aducts, if the requisite height of headway as prescribed by act of
rliament be left for roads, streets or canals passing under the
me.

Crossing Roads.] See sects. 6, 16, 53 to 56 hereon. By sect. 46, Sect. 46.
the line of the railway cross any turnpike road or public highway,
en (except where otherwise provided by the special act) either
ch road is to be carried over the railway, or the railway is to be

8 & 9 Vict. c. 20.

carried over such road, by means of a bridge, of the heig width and with ascent or descent by this or the special act behalf provided;—and such bridge, with the immediate appr ard all other necessary works connected therewith, are to b cuted and at all times thereafter maintained at the expense company:—provided always, that, with the consent of two o justices in petty sessions, the company may carry the railway any highway, other than a public carriage road, on the leve See sect. 49 as to the construction of bridges over roads, and v. *Manchester, Sheffield and Lincolnshire Railway Company*, 1 J

Sect. 59.

631. By sect. 59, when the company intend to apply for suc sent of two justices, they are, fourteen days at least previous holding of the petty sessions at which such application is int to be made, to cause notice of such intended application to be in some newspaper circulating in the county, and also to be a upon the door of the parish church, &c.;—and if it appear to an or more justices acting for the district in which such highw the proposed crossing thereof is situate, and assembled in sessions, after such notice as aforesaid, that the railway can. sistently with a due regard to the public safety and conveni be carried across such highway on the level, such justices

Sect. 60.

consent that the same may be so carried accordingly. An a to the quarter sessions is given by sect. 60 to either party aggri by the determination of such justices upon any such applic in like manner and subject to the like conditions as are herein provided in the case of appeals in respect of penalties and feitures [*i. e.* in sect. 157, *Note* 56, *ante*, p. 331],—and the qu sessions, upon the hearing of such appeal, may either confir quash the determination, or make such other order in regar the method of carrying the railway across such highway as af said, as to them shall seem fit, and such order concerning the c both of the original application and of the appeal as to them a seem reasonable. [*Vide* sect. 65, *post*, p. 1578, as to the mod compelling company to repair bridges, roads, &c.]

26 & 27 Vict. c. 92.

Deviations on Tidal Rivers.] The expenses of removing w deviated from without consent of Board of Trade, as well as of

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144 In the case of *North Staffordshire Rail. Co.* v. *Dale and others* L. J. (N. S.) M. C. 147), it was held that this section provided as for the construction of the bridge and the roadway over it as for future maintenance and repairs of both; and that the company was only bound to make the bridge, considered as the substratum of railway, but also the roadway on and over that substratum, and to ma tain and repair such substratum and roadway. See *Leach* v. *North St fordshire Rail. Co.* 29 L. J. (N. S.) M. C. 150; 1 Law T., N. S. 2 *London and North Western Rail. Co.* v. *Surveyors of Highways of Sta* 33 L. J. (N. S.) M. C. 158; 10 Law T., N. S. 650; *North of Engl Rail. Co.* v. *Longborough*, 24 Law T., N. S. 544.

rey, are recovered from the company with costs, as a penalty is 26 & 27 Vict. c. 92.
vered (26 & 27 Vict. c. 92, ss. 17, 18, 19).

ertificates of Capital subscribed and Paid up before Borrowing,
To be made by a justice, 27 & 28 Vict. c. 120, s. 23; and c. s. 29.

Disputes as to Fences, Tolls, Water or Gas Pipes, Dangerous Trees, and Occupation of Roads and Lands.

Water or Gas Pipes.] By 8 & 9 Vict. c. 20, s. 19, the company 8 & 9 Vict. c. 20. Sect. 19.
not to remove or displace any of the mains or pipes (other than ate service pipes), syphons, plugs or other works belonging to company, &c., or to do any thing to impede the passage of er or gas into or through such mains or pipes, until good and icient mains, &c., plugs and all other works necessary or proper continuing the supply of water or gas as before, shall, at the ense of the company, have been first made and laid down in thereof, and be ready for use, in a position as little varying n that of the pipes or mains proposed to be removed or dis-ced as may be consistent with the construction of the railway, to the satisfaction of the surveyor or engineer of such water gas company, &c.,—or, in case of disagreement between such veyor or engineer and the company, *as a justice shall direct.*

Lands for Spoil Banks, Sidings or Materials.] By sects. 33, 34, Sects. 33, 34, 35, 36.
railway company is to give three weeks' notice to the owners occupiers of lands required for spoil banks, sidings or materials, vious to temporary possession being taken. By sect. 35, the ners may object that other lands ought to be taken. By sect. if the objection so made be on the ground that the lands pro-ed to be taken, or some part thereof, or of the materials contained rein, are essential to be retained by the owner in order to the eficial enjoyment of other neighbouring lands belonging to him, justice, on the application of such owner, may summon the npany to appear before two justices not later than the expiration the said twenty-one days' notice—and on the appearance of the npany, or in their absence, upon proof of the due service of the mmons, such justices may inquire into the truth of such ground objection;—and if it appear to such justices that for some special son, to be stated in the order after mentioned, the lands so pro-ed to be taken, or any part thereof, or of the materials contained rein, are essential to be retained by the owner of such lands order to the beneficial enjoyment of other neighbouring lands longing to him, and ought not therefore to be taken or used the company, such justices, by writing under their hands, may der that the lands so proposed to be taken, or some part thereof, of the materials contained therein, to be specified in such order, all not be taken or used by the company,—and after service

9 & 3 Vict. c. 20.

of such order on the company, it shall not be lawful for to take or use, without the previous consent in writing o owner thereof, any of the lands or materials which by such

Sect. 37.

they are ordered not to take or use. By sect. 37, if the obj so made as aforesaid be on the ground that other lands contiguous to those proposed to be taken, and being suff in quantity, and such as the company are hereinbefore autho to use for the purposes aforesaid, would be more fitting used by the company, and if in such case the company shall r to occupy such other lands in lieu of those mentioned in the n any justice, on the application of such owner or occupier, summon the company and the owners and occupiers of such lands, to appear before two justices, not being more than fou days after such application, nor less than ten days from the se of such summons;—and on the appearance of the parties, o the absence of any of them, upon proof of due service of summons, such justices may determine summarily which of said lands shall be used by the company for the purposes afore and may authorize the company to occupy and use the accordingly.

Sect. 38.

By sect. 38, if in the case last mentioned it appear to such justices, upon the inquiry before them, tha lands of any other party not summoned before them, being su cient in quantity, and such as the company are hereinb authorized to take or use for the purposes aforesaid, woul more fitting to be used by the company than the lands of person who shall have been so summoned as aforesaid, the justices may adjourn such inquiry, and summon such other per to appear before them at any time, not being more than four days from such inquiry, nor less than seven days from the serv of such summons;—and on the appearance of the parties, or the absence of any of them on proof of due service of the summo such justices may determine finally which lands shall be used the purposes aforesaid, and may authorize the company to occu and use the same accordingly.

Sect. 39.

By sect. 39, before entering u any such lands as shall be required for spoil banks or for s cuttings, or for obtaining materials or forming roads as afore the company shall, if required by the owner or occupier there seven days at least before the expiration of the notice to take su lands, find two sufficient persons, to be approved of by a justice case the parties differ, who shall enter into a bond to such own occupier in a penalty of such amount as shall be approved of b such justice, in case the parties differ, conditioned for the pay ment of such compensation as may become payable in respect the same.

Sect. 40.

Fences and Gates for Lands and Private Roads severed.] By sec 40, before the company shall use any such lands they shall

ired so to do by the owner or occupier thereof, separate the 8 & 9 Vict.
: by a sufficient fence from the lands adjoining thereto, with c. 20.
gates as may be required by the said owner or occupier for
convenient occupation of such lands, and shall also, to all
ate roads used by them as aforesaid, put up fences and gates
ike manner, in all cases where the same may be necessary to
ent the straying of cattle from or upon the lands traversed by
roads,—and in case of any difference between the owners or
piers of such roads and lands and the company as to the neces-
of such fences and gates, such fences and gates as any two
istrates shall deem necessary, on application being made to
n in like manner as hereinbefore is provided in respect to the
of such roads. By sect. 41, if any land shall be taken or used Sect. 41.
the company for the purpose of getting materials therefrom for
construction or repair of the railway, or the accommodation
ks connected therewith, they shall work the same in such
nner as the surveyor or agent of the owner of such land shall
ect, or, in case of disagreement between such surveyor or agent
the company, in such manner as any justice shall direct, on
application of either party, after notice of the hearing of the
lication shall have been given to the other party.

Rent and Damages for temporary Occupation of Lands.] To be
ed by two justices if the parties differ (ss. 42, 43).

Disputes as to Tolls.] To be settled by one justice (s. 100).

Removal of Trees dangerous to Railways.] By 31 & 32 Vict. c. 119, 31 & 32 Vict.
24, "If any tree standing near to a railway shall be in danger of c. 119, s. 24.
ling on the railway so as to obstruct the traffic, it shall be lawful
any two justices on the complaint of the company which works
h railway to cause such tree to be removed or otherwise dealt
th as such justices may order, and the justices making such
der may award compensation to be made by the company making
ch complaint to the owner of the tree so ordered to be removed
otherwise dealt with as such justices shall think proper, and the
ount of such compensation shall be recoverable in like manner
compensation recoverable before justices under 'The Railways
auses Consolidation Act, 1845.'"

IV. *Repair of Roads, Bridges, &c. by Company.*

Roads.] By 8 & 9 Vict. c. 20, s. 58, "If in the course of making 8 & 9 Vict.
e railway the company shall use or interfere with any road, they c. 20.
all from time to time make good all damage done by them to Sect. 58.
ch road;—and if any question shall arise as to the damage done
any such road by the company, or as to the repair thereof by
em, such question shall be referred to the determination of two
stices;—and such justices may direct such repairs to be made in
he state of such road, in respect of the damage done by the com-

9 & 10 Vict. c. 20.

pany, and within such period as they think reasonable, and same two justices, *Reg.* v. *Rawson and Horton*, 15 Law T., 179] may impose on the company, for not carrying into effect repairs, any penalty not exceeding £5 per day as to such ju shall seem just; and such penalty shall be paid to the survey other person having the management of the road interfered wi the public, if a public road, and be applied for the purposes of road, or if a private road, the same shall be paid to the thereof:—provided always, that in determining any such que with regard to a turnpike road the said justices shall have re to, and shall make full allowance for, any tolls that may been paid by the company on such road in the course of the thereof." 145

An appeal is given against the justices' determination by sect ante, p. 1574.

Sects. 61, 62.

Ascents, Handrails, &c. on Level Crossings.] By sect. 61, company is to make sufficient approaches and fences to bridle and footways crossed on the level; and by sect. 62, if the comp fail to make convenient ascents and descents, or other conven approaches and handrails, fences, gates and stiles, two justices the application of the surveyor of roads, or of any two househol within the parish or district where such crossing shall be situ after not less than ten days' notice to the company, may order company to make such ascent and descent or other approach such handrails, fences, gates or stiles as aforesaid, within a pe to be limited for that purpose;—and if the company fail to com with such order, they are to forfeit £5 for every day that they fa to do;—and the justices by whom any such penalty is imposed order the whole or any part thereof to be applied, in such manner by such person as they think fit, in executing the work in res whereof such penalty was incurred. (*Vide* cases in *Note* 143, p. 1572). [Form of Order, No. 6, Oke's "*Formulist*," 6th ed. p. 9

Sect. 65.

Bridges, Fences, Gates, &c. out of Repair.] By sect. 65, where company are required to maintain or keep in repair any bri fence, approach, gate or other work executed by them, two just on the application of the surveyor of roads, or of any two h

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145 In *London and North Western Rail. Co.* v. *Wetherall* (20 L. J., Q 337; M. C. 243), it was held that an order of justices under this sect directing a railway company to repair damage done by them to a ro need not specify the particulars of the damage done, or of the rep ordered, if it states the length of road injured, and directs the dama done to be made good. Also, that such an order as well as a convic adjudging a penalty for its disobedience, may include several r situate in the same parish. See also *West Riding Rail. Co.* v. *Wak Local Board of Health*, 33 L. J. (N. S.) M. C. 174. [Forms of Compla Order, Conviction, and Distress Warrant, Nos. 1—5, Oke's "*Form* 6th ed. p. 930.]

lders of the parish or district where such work may be situate, 8 & 9 Vict. c. 20.
nplaining that any such work is out of repair, after not less than days' notice to the company, may order the company to put such rk into complete repair within a period to be limited for that rpose;—and if the company fail to comply with such order, they to forfeit £5 for every day they shall fail so to do;—and the stices by whom any such penalty is imposed may order the whole any part thereof to be applied in such manner and by such persons they think fit, in putting such work into repair. [Form of Order, 7, Oke's "*Formulist*," 6th edit. p. 933.]

Execution of Accommodation Works, Gates, &c., Drains, &c., for owners and Occupiers.] By sect. 68, railway companies are required maintain certain works, such as gates, bridges, fences, drains, and ntering-places for the accommodation of the owners and occupiers lands adjoining the railway. By sect. 69, if any difference arise specting the kind or number of any such accommodation works, the dimensions or sufficiency thereof, or respecting the maintaing thereof, the same is to be determined by two justices, who are so to appoint the time within which such works shall be commenced d executed by the company. [This does not extend to mines. g. v. *Fisher*, 32 L. J. (N. S.) M. C. 12; 7 Law T., N. S. 325.] Sects. 68, 69.

y sect. 70, if for fourteen days next after the time appointed for the mmencement of such works the company shall fail to commence em, or having commenced shall fail to proceed diligently to execute the same in a sufficient manner, the party aggrieved by such ilure may himself execute the works or repairs; and the reasonable xpenses thereof are to be repaid by the company to him;—and if ere be any dispute about such expenses, the same is to be settled by wo justices. See sect. 71, as to further accommodation works being ade by owner, &c. at own cost, as authorized by two justices. Sect. 70, 71.

V. *Disputed Cases of Compensation for Land taken or Damage done.*

Temporary Occupation of Private Roads.] By 8 & 9 Vict. c. 20, 30, subject to the provisions herein and in the special act conained, the company, at any time before the expiration of the period imited for the completion of the railway, may enter upon and use ny existing private road, &c.;—but before the company shall enter pon or use any such existing road, they are to give three weeks' notice of their intention to the owners and occupiers of such road, and f the lands over which the same shall pass, and in such notice state the time during which, and the purposes for which, they intend to occupy such road, and pay to the owners and occupiers of such road, and of the lands through which the same shall pass, such compenation for the use and occupation of such road, either in a gross sum of money or by half-yearly instalments, as shall be agreed upon Sect. 30.

8 & 9 Vict. c. 20.

between such owners and occupiers respectively and the comp
or in case they differ about the compensation, the same is
settled by two justices, in the same manner as any compensation
exceeding £50, is directed to be settled by the said Lands Cl
Consolidation Act. 146

Sects. 6, 16.

Lands Clauses Act incorporated with 8 & 9 *Vict.* c. 20.] "The L
Clauses Consolidation Act, 1845," 8 & 9 Vict. c. 18, contains a va
of provisions as to settling cases of disputed compensation for l
before justices, which see *ante*, pp. 1447, 1448, tit. "*Lands Cl*
Act." By sect. 6 of this act, 8 & 9 Vict. c. 20 (and see also s.
in exercising the power given to the company by the special a
construct the railway, and to take lands, the company shall be
ject to the provisions of the 8 & 9 Vict. c. 18, making compens
to owners and occupiers, "and, except where otherwise provide
this or the special act, the amount of such compensation shal
ascertained and determined in the manner provided by the
Lands Clauses Consolidation Act for determining questions of c
pensation with regard to lands purchased or taken under the pr
sions thereof." See *Knock* v. *Metropolitan Rail. Co.*, 38 L. J. (N
C. P. 78; 19 Law T., N. S. 239, as to what the compensation
be for. (See also s. 44.) [By 31 Vict. c. 18 (which authorizes
board of trade to grant an extension of time to railway compa
for the purchase of lands), s. 15, "justices . . . in estimating
compensation to be made by the company to the owners or occup
of or persons interested in lands, shall have regard to and m
compensation for the additional damage (if any) sustained by th
owners, occupiers or persons by reason of any extension of ti
under this act."]

[31 Vict. c. 18, s. 15.]

Sect. 140.

Mode of ascertaining Damages.] By sect. 140, "In all cases wh
any damages, costs or expenses are by this or the special act
any act incorporated therewith, directed to be paid, and the meth
of ascertaining the amount or enforcing the payment thereof is n
provided for, such amount, in case of dispute, shall be ascertain
and determined by two justices [see 31 Vict. c. 18, s. 15, *supra*].
and if the amount so ascertained be not paid by the company
other party liable to pay the same within seven days after demand
the amount may be recovered by distress of the goods of the co
pany or other party liable as aforesaid." By sect. 141, if sufficie
goods of the company cannot be found whereon to levy any su
damages, costs and expenses payable by the company, the sa
may, if the amount thereof do not exceed £20, be recovered b
distress of the goods of the treasurer of the company;—but no su
distress shall issue against the goods of such treasurer unless se
days' previous notice in writing, stating the amount so due, a

Sect. 141.

146 *Vide* tit. "*Lands Clauses Act*," *ante*, p. 1446.

anding payment thereof, have been given to such treasurer, or at his residence;—and if such treasurer pay any money under 8 & 9 Vict. c. 20. distress as aforesaid, he may retain the amount so paid by , and all costs and expenses occasioned thereby, out of any ey belonging to the company coming in his custody or control, e may sue the company for the same.

thod of Proceeding in Questions of Damage, Compensation, &c.] sect. 142, "Where in this or the special act any question of pensation, expenses, charges or damages, or other matter, is red to the determination of any one justice or more, it shall be ul for any justice, upon the application of either party, to mon the other party to appear before one justice, or before two ices, as the case may require, at a time and place to be named ich summons;—and upon the appearance of such parties, or in absence of any of them, upon proof of due service of the sum- s, it shall be lawful for such one justice, or such two justices, e case may be, to hear and determine such question, and for purpose to examine such parties or any of them, and their esses on oath;—and the cost of every such inquiry shall be in discretion of such justices, and they shall determine the amount eof." Sect. 142.

justice may also, by sect. 134, receive a declaration from an trator or umpire appointed under the act, who is required to e such declaration before he enters into the consideration of the ters referred to him. [Form, No. 9, p. 934, Oke's "*Formulist*," edit.] Sect. 134.

VI. *Payment of Special Constables for Railways.*

n order for payment to the special constables appointed under 2 Will. 4, c. 41 (*ante*, p. 1352), may be made by two or more ices on treasurer of company, &c., oath being made by three or e credible witnesses, within one calendar month from appoint- t, that such appointment was occasioned by the behaviour, &c. he persons employed upon the railway. Order to be sent to etary of state, and, if allowed by him, to be binding;—may be ed by distress on goods of company by warrant of two justices. retary of state may disallow order altogether or in part, in which the expenses are to be paid out of county rate, &c. (1 & 2 Vict. 0, ss. 1, 2, 3). [Form of Order, No. 10, Oke's "*Formulist*," 6th pp. 934, 935.] 1 & 2 Vict. c. 80.

VII. *Complaints against Officers of Railway Companies.*

fficers not accounting.] See the provisions of the Companies uses Act, 8 & 9 Vict. c. 16, *ante*, p. 1350, which apply here.

ecovery of Possession of Toll Houses from Collectors.] By 8 & 9 t. c. 20, s. 106, "If any collector of tolls or other officer em- 8 & 9 Vict. c. 20.

5 & 6 Vict. c. 20. Sect. 106.

ployed by the company be discharged or suspended from his o or die, abscond or absent himself, and if such collector or c officer, or the wife, widow, or any of the family or representa of any such collector or other officer, refuse or neglect, after s days' notice in writing for that purpose, to deliver up to the c pany, or to any person appointed by them for that purpose, station, dwelling-house, office or other building, with its ap tenances, or any books, papers or other matters belonging to company in the possession or custody of any such collector or of at the occurrence of any such event as aforesaid, then, upon a cation being made by the company to any justice, it shall be la for such justice to order any constable, with proper assistanc enter upon such station or other building, and to remove any pe found therein, and to take possession thereof, and of any books, papers or other matters, and to deliver the same to the c pany, or any person appointed by them for that purpose."

RATES. 147

I. *Recovery of Poor and other rates.*

II. *Rating new Premises and apportioning Rates on Removal.*

I. *Recovery of Poor and other Rates.*

By the stat. 43 Eliz. c. 2, s. 4, the present [or any succeedin subsequent, 17 Geo. 2, c. 38, s. 11, *Overseers of East Dean* v. *Ev* 30 L. J. (N. S.) M. C. 117; 3 Law T., N. S. 700] churchwarden overseers, or any of them, by warrant from any two justices may levy rates and all arrearages on persons refusing to contr according as they should be assessed, by distress and sale of offenders' goods; and, in default, two justices might commit t to gaol, "there to remain without bail or mainprize *until p ment;*" but now, by 12 & 13 Vict. c. 14, the mode of proceedin

12 & 13 Vict. c. 14.

pointed out for the recovery of "any sum or sums to which person or persons is or are now [11th May, 1849] or may here be rated or assessed in or by any rate or assessment for the r of the poor or for the highways in England or Wales, or in any other rate or assessment which by law now or hereafter shall be directed to be enforced or recovered in the same man a poor rate" (s. 1). By the same section, which recites that provision is made for levying the costs and expenses incurred the overseers of the poor or the surveyors of highways in

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147 *Making of Rates.*] The enactments as to making and publ rates and assessing owners instead of occupiers, are given in tit. "

148 Proceedings cannot be taken in the county courts for rates action lies for them (*Stevens* v. *Evans*, 2 Burr. 1152; 1 Bla. Rep *Underhill* v. *Ellicombe*, M'Clel. & Y. 456).

12 & 13 Vict. c. 14.

ery of the same respectively," the justices may order a mable sum for the costs and expenses incurred in obtaining listress warrant to be levied with the rate [which could not erly have been done, *Clarke* v. *Woods*, 17 L. J. (N. S.) M. C. and these costs can be adjudged in cases where the proceed- or the rate is under a local act, *Reg.* v. *Justices of New Sarum*, aw T. 207]. The justices in these proceedings act as minis- l and not as judicial officers (*Sweetman* v. *Guest*, 37 L. J. (N. I. C. 59; 18 Law T., N. S. 52), and have no authority to licate upon the rateability of the defendant, his liability to or to inquire into the validity of the rate; for they could not right, though they should hold it to be bad (those questions ; grounds for an appeal to the quarter sessions), and their diction is confined to an inquiry into the reasons why the rate ot been paid. See *Reg.* v. *Justices of Kingston-upon-Thames Phillips*, 27 L. J. (N. S.) M. C. 199; *Reg.* v. *Justices of estershire*, 29 L. J. (N. S.) M. C. 117; 1 Law T., N. S. 294; s *Board of Health* v. *Davis*, 29 L. J. (N. S.) M. C. 173; 2 T., N. S. 172; *Ex parte May*, 31 L. J. (N. S.) M. C. 161. e are two exceptions to this rule:—1, where the party assessed no assessable property in the parish; and 2, where certain s and ceremonies in the making of the rate have not been plied with, such as the non-allowance by justices and non- ication. The first exception includes the question of occu- y or non-occupancy of the premises rated by the person noned, and if he is shown to be in the visible occupation em, the justices are bound to issue their distress warrant, duty in this respect being merely ministerial, and they cannot ito the question of whether or not the occupation be beneficial, h is matter of appeal to the quarter sessions (*Reg.* v. *Justices Warwickshire*, 29 L. J. (N. S.) Q. B. 138; 2 Law T., N. S. 233; *Reg.* v. *Bradshaw*, 29 L. J. (N. S.) M. C. 176, confirming *seers of Birmingham* v. *Shaw*, 18 L. J. (N. S.) M. C. 89). See t 12 Vict. c. 44, s. 4, Vol. I. p. 47, indemnifying justices ting a distress warrant for poor rate where the rate is defec-

But if the rate be objected to on grounds which may render valid, or the parochiality of the party is in dispute, the justices ld decline to interfere unless compelled.

rocedure.] One of the overseers or surveyors [or an assistant seer appointed by the poor law commissioners, or vestry, or ices, or a collector of highway rates appointed under 5 & 6 l. 4, c. 50, s. 36] in office at the time of commencing the pro- ings, makes a complaint [of which there is no limited time, 149

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9 11 & 12 *Vict. c.* 43, *not applicable.*] None of the provisions of is's Act, 11 & 12 Vict. c. 43, Vol. I. pp. 127, 128, especially that of

12 & 13 Vict. c. 14.

[32 & 33 Vict. c. 41, s. 17.]

but the rate is deemed to be made on the day when i allowed by the justices, or if the justices sever in their allowa then on the day of the last allowance, 32 & 33 Vict. c. 41, s. to a justice [after the expiration of seven days after the dem (54 Geo. 3, c. 170, s. 12)], who issues his summons to the p making default in payment to appear before two justices [*vide* Forms]; which may be served by the complainant, a constabl other person upon the defaulter personally, or by leaving the s with some person for him at his or her last place of abod reasonable time before the day of appearance, and on n appearance the justices may proceed *ex parte* on proof on oath the service (s. 5). 150 The 25 & 26 Vict. c. 82, in order "to p vide for the more economical recovery of poor rates and other l rates and taxes," enacts (by s. 1),—"where any number of l rates and taxes, *whether of the same or of different kinds*, are from the *same person*, the rates and taxes so due may be inclu in the same information, complaint, summons, order, warrant other document required by law to be laid before justices or to issued by justices,—and every such document as aforesaid sh as respects each rate or tax comprised in it, be construed a separate document, and its invalidity as respects any one rate tax shall not affect its validity as respects any other rate or t comprised in it:—no costs shall be allowed in respect of seve informations, complaints, summonses, orders, warrants, or oth such documents as aforesaid, in cases where, in the opinion of t justices or court having jurisdiction over the said costs, one info mation, complaint, summons, order, warrant, or other docum as aforesaid might have sufficed, regard being had to the provisi of this act." [The justices acting under this enactment shou insert in the same document only such claims as are enforceab by the same complainant.]

25 & 26 Vict. c. 82.

Hearing.] The proofs necessary at the hearing, which must ta place before two justices, will be—the *making* of the rate, and t signing of the declaration at the foot,—the *allowance* by two ju

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sect. 11, which limits the time for making the complaint to six mont (Vol. I. p. 135), apply to the recovery of rates as has been supposed, in issuing a distress warrant the justices act as ministerial and not judicial officers; and no order of payment is necessary, for the rate is t order, and consequently the case is not within the operation of the 1 12 Vict. c. 43 (*Sweetman* v. *Guest*, 37 L. J. (N. S.) M. C. 59; 18 Law J N. S. 52). If these cases had been within the latter act, there wou have been no necessity for the provisions in the act of the next sessio 12 & 13 Vict. c. 14 (noticed p. 1584), as to costs, terms of imprisonm in default of distress, &c., as 11 & 12 Vict. c. 43, had already contain similar provisions.

150 In case incorporated companies are the defaulters the summons are to be served in the same manner as the demand of payment of th rates may be made, for which see *Note* 152, *post*, p. 1585.

ss,—the *publication* of the rate [on the next Sunday after the owance, 17 Geo. 2, c. 3, s. 1],—151 the *rating* of the defendant,— e *demand* by the overseer or other person authorized,—152 and e *nonpayment* [for seven days after such demand and previous to uing the summons (54 Geo. 3, c. 170, s. 12)],—and under the Geo. 3, c. 12, s. 19, or 13 & 14 Vict. c. 99, as respects highway tes, and 32 & 33 Vict. c. 41, as regards poor rates made after 29th ptember, 1869, where the owner is rated as such for small tenements, not being the occupier, there must, in the case of a highway te, be the additional proof of the order or resolution of the meeting claring that the owners shall be rated instead of the occupiers sreof,—153 but this proof is not necessary as to a poor rate made

12 & 13 Vict. c. 14.

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151 *Evidence of making and Publication of Poor Rate.*] See 32 & 33 Vict. 41, s. 17, p. 1584, as to date of allowance of rate. By sect. 18 of the me act, "the production of the book purporting to contain a poor rate, ith the allowance of the rate by the justices, shall, if the rate is made in e form prescribed by law, be *primâ facie* evidence of the due making d publication of such rate."

32 & 33 Vict. c. 41, ss. 17, 18.

152 *Modes of demanding Rates.*] A demand of rate need not be personal n the person assessed (*Reg.* v. *Justices of Gloucestershire*, 24 J. P. 39), a emand notice left at his house being sufficient (*Yewdall* v. *Craven*, 11 aw T., N. S. 368). "The Poor Law Amendment Act, 1868," 31 & 32 ict. c. 122, has the following enactments thereon:—Sect. 39, "when a oor rate shall be made and assessed upon any land or premises, and the ccupier thereof is not living on such land or premises nor in the parish r which the rate shall be made, or the owner, if assessed for such rate n the place of the occupier, is not living in such parish, a demand of the ate in writing delivered to the person having the custody of the land r premises, or if no such person can be found, then affixed upon some onspicuous part of the land or premises, shall be deemed a sufficient emand to justify proceedings for the nonpayment of such rate;—and here the residence or place of abode of the person assessed is not known o the overseers, and cannot be ascertained upon inquiry at the said land r premises, the summons for the nonpayment of the rate may be served n like manner." Sect. 40, "when a poor rate is assessed upon any corporation aggregate, joint stock or other company, or any conservators or ther public trustees, a demand for payment, either made by letter sent through the post addressed to the clerk or secretary or other principal officer of the corporation, company, conservators, or trustees at the office of such corporation, company, conservators, or trustees, or made personally upon such clerk, secretary, or officer at such office, shall be deemed a sufficient demand,—and a summons for the nonpayment of such rate may be served in like manner."

31 & 32 Vict. c. 122, ss. 39, 40.

153 *Proceedings against Owners of Small Tenements.*] Where owners are assessed under the statute 13 & 14 Vict. c. 99, the highway rate may be levied on the goods of the owners in the same way as the occupiers when assessed; and the goods of the occupiers are liable to be distrained as if such rate was assessed on such occupier (s. 5). It is optional, therefore, with the complainant who he will have summoned. If the owner is assessed to the poor rate under 59 Geo. 3, c. 12, s. 19, the rate is enforced against him in like manner as against an occupier. The 13 & 14 Vict. c. 99, was repealed by "The Representation of the People Act, 1867," 30 & 31 Vict. c. 102, s. 7, so far as it relates to the *poor* rate in *parliamentary* boroughs (and see *Stamper* v. *Churchwardens, &c., of Sunderland*, 37 L. J. (N. S.) M. C. 137); and by 32 & 33 Vict. c. 41, s. 6, the 13 & 14 Vict. c. 99, "and so much of any local statute as relates to the rating of

13 & 14 Vict. c. 99.

30 & 31 Vict. c. 102, s. 7.

32 & 33 Vict. c. 41, ss. 6, 11, 12.

12 & 13 Vict. c. 14.

after the 29th September, 1869 (see *Note* 151). A fraction farthing is not recoverable, and should not be charged in the (*Morton* v. *Bremmer*, 29 L. J. (N. S.) M. C. 218; 2 Law T., N 600); but in the more recent case of *Bavin* v. *Hutchinson*, 31 I (N. S.) M. C. 229; 6 Law T., N. S. 504, in the Exch. Ch. decision was modified, and it decides that the excess was matt appeal only and not actionable.

Distress and Imprisonment.] If the justices direct payment of rate or rates [no order being necessary, see *Note* 149], they ma levied immediately or otherwise, as they may direct, on the goo the defaulter under a warrant of distress granted by the same justices, with the costs (12 & 13 Vict. c. 14, s. 1), and any nun of persons may be included in the same warrant (s. 3), 154 and

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owners instead of occupiers," were repealed so far as they apply to poor rate made after 29th September, 1869. By sect. 11, "Where owner has become liable to the payment of the poor rates, the rates from him, together with the costs and charges of levying and recove the same, may be levied on the goods of the owner, and be recovered f him in the same way as poor rates may be recovered from the occupi By sect. 12, "Notwithstanding the owner of any such rateable here ment as aforesaid has become liable for payment of the poor rates ass thereon, the goods and chattels of the occupier shall be liable to be trained and sold for payment of such rates as may accrue during occupation of the premises, at any time while such rates remain un by the owner, subject to the following provisions:

1. That no such distress shall be levied unless the rate has b demanded in writing by the overseers from the occupier, and occupier has failed to pay the same within fourteen days after service of such demand:
2. That no greater sum should be raised by such distress than sha the time of making the same be actually due from the occupier rent of the premises on which the distress is made:
3. That any such occupier shall be entitled to deduct the amoun rates for which such distraint is made, and the expense of distra from the rent due or accruing due to the owner, and every s payment shall be a valid discharge of the rent to the extent of rate and expenses paid.

154. *Recovery of Rates from Bankrupts or Insolvents—Tenants in Co —Execution of Distress Warrant by Deputy.*] The certificate of a bankr is a bar to the levying of a rate (made before his bankruptcy) upon t bankrupt's subsequently-acquired goods, but the rate of arrears may proved under the fiat (*In re Wetherall and another, Justices of N* 19 L. J. (N. S.) M. C. 115), and of course a commitment cannot is against the defaulter. In *Phillips* v. *Naylor and others* (3 Exch. R 14; 22 J. P. 355, affirmed in error, 33 Law T. 167), it was held, t a rate made after the bankruptcy may be enforced against the bankru and he be imprisoned pending the grant of his certificate, notwithstan the protection of the Court of Bankruptcy; and this seems unaffected the provisions of "The Debtors Act, 1869," 32 & 33 Vict. c. 62, abol imprisonment for debt, which excepts in sect. 4, sub-sect. 2, "default payment of any sum recoverable summarily before a justice of the pea By "The Bankruptcy Act, 1869," 32 & 33 Vict. c. 71, s. 32, parish rates due from him at the date of the adjudication, and due and payab within the twelve months preceding the bankruptcy, are, with assess taxes, land tax, and income tax, to have priority over other debts rank equally and be paid in full, &c. A distress warrant may iss

may be made "not only in the place for which such assess- 12 & 13 Vict.
it was made, but in any other place within the same county or c. 14.
inct" (17 Geo. 2, c. 38, s. 7), or in any other county or juris-
ion on being indorsed by a justice there (54 Geo. 3, c. 170, s. 12;
nd in default of distress, two or more justices, and not one, as the
n shows, may issue their commitment of the offender to the
mmon gaol or house of correction for any time not exceeding three
ndar months, unless the sums therein mentioned, including the
ts of taking and conveying him to prison, shall be sooner paid
& 13 Vict. c. 14, s. 2) 155; but several persons cannot be included
the same commitment, and there must be a separate one for each
3). The justices may give time for payment, so far as to with-
d the issuing of the distress warrant for a specified period. In
h cases it is dated on the day of hearing and kept by the clerk
dy to be issued if default made in payment.

Forms.] The several forms given in the schedule to 12 & 13 Vict.
14, are in Oke's "*Formulist*," 6th edit. pp. 935—942 (see s. 8);
d see the provisions of 25 & 26 Vict. c. 82.

Enforcing, pending Appeal.] By 41 Geo. 3, c. 23, s. 2, a rate may be 41 Geo. 3,
ied notwithstanding the party or any other person giving notice c. 23.
appeal against it, for any cause whatsoever:—provided that from
d after the giving of such notice no proceedings shall be com-
enced or carried on to recover any greater sum of money than the
m at which the same premises shall have been rated or assessed in
e last effective rate collected in the parish, &c. If rate on appeal
ashed, proceeding not be commenced or continued (s. 3); and by
ct. 1, although the rate be quashed, the sums charged are to be
vied as if no appeal had been made, and are to be taken as pay-
ent on account of the *next* effective rate. 156

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gainst any one of a number of tenants in common refusing to pay a rate
essed on all of them (*Paynter* v. *Reg.*, 10 L. J. (N. S.) M. C. 136). The
verseers to whom the warrant of distress is directed may execute it by
eputy (*Walsh* v. *Southwell*, 20 L. J. (N. S.) M. C. 165; 16 Law T. 391).
for the charges allowed upon levying these distresses, see *ante*, p. 1374,
it. "*Distress.*"

155 A commitment for nonpayment of rates is in the nature of civil
rocess (*Reg.* v. *Governor of Debtors' Prison, Whitecross Street*, 34 L. J.
N. S.) M. C. 193).

156 *Cases on "next effective Rate," &c.*] In *Reg.* v. *Parker* (7 E. & B.
155), it was decided that if a rate be appealed against and reduced, but
the party has during the appeal paid on the unreduced assessment in
another rate, the parish officers may, in subsequent rates, credit him for
the excess paid without an order of sessions. A person who was not
assessed in a rate which was afterwards quashed on appeal, but who
claimed to have a deduction on that account in a subsequent rate, was
held not so entitled, and that the parish officers were entitled to have a
distress warrant for the whole sum against him (*Reg.* v. *Justices of Kings-
ton-upon-Thames and Phillips*, 27 L. J. (N. S.) M. C. 199). In a similar
case (*Reg.* v. *Justices of Kingston-upon-Thames and Wedd*, 27 L. J. (N. S.)
M. C. 201; *S. C.*, *Reg.* v. *Justices of Surrey*, 31 Law T. 162), A. was

II. *Rating new Premises and apportioning Rates on Removal*

31 & 32 Vict. c. 122, s. 38.

Rating new Premises or Buildings.] By "The Poor Law Am ment Act, 1868," 31 & 32 Vict. c. 122, s. 38," when any person occupy any new house or other building in any parish wher poor rate is not made under the provisions of a local act, w house or building was incomplete, or not fit for occupation, or not entered as such in valuation list in force in the paris the time when the current rate for the time being was made, overseers may enter such house or building with the name of occupier thereof and the date of the entry in the rate book, require the occupier to pay such amount as according to judgment shall be the proper sum, having due regard to the rate value of such house or building, and the time which shall elapsed from the making of the current rate to the date of such en —and the person so charged shall be considered as actually from such date, and shall be liable to pay the sum assessed in manner and subject to the like penalty of distress, and with the power of appeal, as if he had been assessed for the same when rate was made:—Provided that when the said overseers shall enter the said house or building in the rate book they shall forw to the assessment committee of the union comprising such par if any such there be, a supplemental list with reference to s house or building, and the same shall be dealt with in all respe and with the like incidents and consequences, as a supplemental made by the overseers under section twenty-five of 'The Un Assessment Committee Act, 1862.'"

32 & 33 Vict. c. 41, s. 16.

Successive Occupiers and Occupiers coming into unoccupied P mises.] The 17 Geo. 2, c. 38, s. 12, formerly in force hereon, h been repealed by 32 & 33 Vict. c. 41, s. 16, and that section ena as to the poor rate, "If the occupier assessed in the rate when ma shall cease to occupy before the rate shall have been wholly d charged, or if the hereditament being unoccupied at the time of t making of the rate become occupied during the period for which t rate is made, the overseers shall enter in the rate book the name the person who succeeds or comes into the occupation, as the ca may be, and the date when such occupation commences, so far

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assessed in February in a rate afterwards quashed on appeal; in the ne rate in June the same premises, afterwards occupied by W., were re rated, but in the following rate in October (which was to meet the ded tions of the quashed rate) W. was rated and claimed to have the ra paid by A. deducted from it: it was held by Lord *Campbell*, C. J., an *Wightman*, J., that the October rate was not the next effective rate, an that W. had no right to claim the deduction; but by *Erle* and *Crom* JJ., that he was so entitled. The party would be entitled to the ren although the appeal was not to the quarter sessions, but to the spe sessions under 6 & 7 Will. 4, c. 96, although that act does not expre provide for that as in the 41 Geo. 3, c. 23, s. 1.

same shall be known to them, and such occupier shall thence- 32 & 33 Vict.
be deemed to have been actually rated from the date so entered c. 41, s. 16.
he overseer, and shall be liable to pay so much of the rate as
be proportionate to the time between the commencement of
occupation and the expiration of the period for which the rate
made, in like manner, and with the like remedy of appeal as
had been rated when the rate was made;—and an outgoing
pier shall remain liable in like manner for so much and no
of the rate as is proportionate to the time of his occupation
in the period for which the rate was made."

to recovering rates under the Public Health Act and Lighting
Watching Act, see titles "*Public Health*," *ante*, p. 1563, and
ghting and Watching," *ante*, p. 1450.

RECOGNIZANCES.

to Recognizances upon Summary Proceedings, see *ante*, p. 170.)

hat Recognizances may be taken by Justices.] In summary pro-
ings they may take a recognizance of a defendant to appear on
adjournment of the hearing of an information or complaint
.I. pp. 159, 160);—or till the return of a distress warrant on his
s (Id. p. 226);—or on the removal of convictions by certiorari
p. 56);—on appeals against summary proceedings (Id. pp. 258,
;—and under various titles of this work, not to repeat offences.
ndictable offences, for the appearance of the person accused on
remand day (*ante*, p. 936); and to answer an indictment at the
ons or assizes (*ante*, p. 975);—also the prosecutor and witnesses
refer and give evidence on such indictment (*ante*, p. 971);—also
he removal of indictments before verdict (5 & 6 Will. 4, c. 33,
16 & 17 Vict. c. 30, s. 5).

ow Recognizances Estreated.] The estreating of recognizances
n out of sessions, and which are not for the appearance of the
ies bound at any quarter sessions or assizes, is under the 3 Geo.
46, s. 2; see Vol. I. p. 161, *Note* 10. Recognizances for the
arance of parties at sessions or assizes are also estreated in the
ner provided by 3 Geo. 4, c. 46, and 7 Geo. 4, c. 64, s. 31; and
2 & 23 Vict. c. 21, ss. 38—40. The estreating of recognizances
eep the peace, or to be of good behaviour, is regulated by
17 Vict. c. 30, s. 2 (tit. "*Sureties*," *post*).

REFORMATORY SCHOOLS.

The Reformatory Schools Act, 1866," 29 & 30 Vict. c. 117 29 & 30 Vict
sed 10th August, 1866), repealed all the previous acts of 1 & 2 c. 117.
c. 82, s. 11; 17 & 18 Vict. c. 86; 18 & 19 Vict. c. 87; 19 & 20
c. 109, and 20 & 21 Vict. c. 55 (s. 37); and contains now
whole law upon the subject which by sect. 38 applies to schools

29 & 30 Vict. 117.

certified under the repealed acts, and to what has been done them. The cases in which juvenile offenders may be sent to schools are mentioned in sects. 14, 32, set out in Vol. I. pp. 213, with other provisions applicable; and the offences in r to schools and as to evidence are given in Vol. I. p. 732. H have only to give the provisions as to the—

I. *Certifying of Reformatory Schools, and Expenses.*
II. *Powers of Managers, &c. of Schools.*
III. *Recovery of Contribution from Parent or Offender.*

I. *Certifying of Reformatory Schools, and Expenses.*

Mode of Certifying Reformatory Schools.] By 29 & 30 Vict. c s. 4, "One of her Majesty's principal secretaries of state, herei referred to as the secretary of state, may, upon the application managers 157 of any reformatory school for the better train youthful offenders, direct one of her Majesty's inspectors of pr who shall be styled the inspector of reformatory schools, to ex into the condition and regulations of the school, and to report t thereon;—and, if satisfied with such report, the secretary of may, by writing under his hand, certify that such school is for the reception of such youthful offenders as may be sent the pursuance of this act, and the same shall be deemed a cer reformatory school. No substantial addition or alteration sh made to or in the buildings of any certified reformatory s without the approval in writing of the secretary of state."

Inspection of School.] Sect. 5. "Every certified reformatory s shall from time to time, and at least once in every year, be vi by the inspector of reformatory schools;—and the secretary of s if dissatisfied with the condition of such school as reported to may withdraw the certificate, and may by notice under his hand addressed and sent to the managers of such school, declare that certificate is withdrawn as from a time specified in the notice, be not less than six months after the date of the notice."

Power to appoint Assistant to Inspector.] Sect. 6. "The secret of state may from time to time appoint a fit person to assist inspector of reformatory schools; and every person so appoi shall have such of the powers and duties of the inspector as

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157 *Definition of "Manager."*] The word "managers" is to inc any person or persons having the management or control of any sch which the act applies (29 & 30 Vict. c. 117, s. 9).

158 *Service of Notices on School Authorities.*] By sect. 35, "any n t may be served on the managers of a certified reformatory scho delivering the same personally to any one of them, or by sending it post, or otherwise, in a letter addressed to them or any of them at t school, or at the usual or last known place of abode of any manag of their secretary."

etary of state from time to time prescribes, but shall act under direction of the inspector." 29 & 30 Vict. c. 117.

esignation of Certificate by Managers.] Sect. 7. "The managers ny certified reformatory school may upon giving six months', the executors or administrators of a deceased manager (if only) of any certified reformatory school may upon giving one nth's, previous notice in writing of their intention so to do, gn the certificate given to such school; and accordingly, at the iration of six months or one month (as the case may be) from date of the notice (unless before that time the notice is withwn), the certificate shall be deemed to be resigned."

iabilities of Managers.] Sect. 8. "The managers of a certified rmatory school may decline to receive any youthful offender posed to be sent to them under this act, but when they have e received him they shall be deemed to have undertaken to cate, clothe, lodge and feed him during the whole period for ich he is liable to be detained in the school, or until the withwal or resignation of the certificate takes effect, or until the tribution out of money provided by parliament towards the tody and maintenance of the offenders detained in the school is continued, whichever shall first happen."

Effect of Withdrawal of Certificate.] Sect. 9. "Whenever the tificate is withdrawn from or resigned by the managers of a ormatory school no youthful offender shall be received into such ool after the date of the receipt by the managers of the school of notice of withdrawal, or after the date of the notice of resignan (as the case may be); but the obligation of the managers to ucate, clothe, lodge and feed any youthful offenders in the school the respective dates aforesaid shall, excepting so far as the retary of state may otherwise direct, be deemed to continue til the withdrawal or resignation of the certificate takes effect, until the contribution out of money provided by parliament wards the custody and maintenance of the offenders detained in e school is discontinued, whichever shall first happen."

Disposal of Inmates on Withdrawal or Resignation of Certificate.] ct. 10. "When the withdrawal or resignation of the certificate of reformatory school takes effect, the youthful offenders detained erein shall be, by the order of the secretary of state, either disarged or transferred to some other certified reformatory school."

Publication of the Grant or Withdrawal of Certificate.] Sect. 11. A notice of the grant of any certificate to a reformatory school, r of the withdrawal or resignation of such a certificate, shall within ne month be advertised by order of the secretary of state, as to a chool in England in the London Gazette . . . ."

29 & 30 Vict. c. 117.

Power of Prison Authority to contract with Managers of Sch
Sect. 27. "Any prison authority 159 may contract wit managers of any certified reformatory school for the reception maintenance therein of offenders whose detention in a cer reformatory school is directed by a court or justices, or a m trate, acting for or within the district of the contracting p authority, in consideration of such payments as may be from to time agreed on."

Contribution to Establishment and Enlargement of certified R matory Schools.] Sect. 28. "A prison authority in England from time to time contribute such sums of money, and upon conditions as it may think fit, towards the alteration, enlarge or rebuilding of a certified reformatory school,—or towards support of the inmates of such a school,—or towards the man ment of such a school,—or towards the establishment or buil of a school intended to be a certified reformatory school, towards the purchase of any land required for the use of an exis certified reformatory school, or for the site of any school inte to be a certified reformatory school; provided,—

"First, that not less than two months' previous notice of the tention of the prison authority to take into consideration making of such contribution, at a time and place to be m tioned in such notice, be given by advertisement in some or more public newspaper or newspapers circulated wi the district of the prison authority, and also in the man in which notices relating to business to be transacted by t authority are usually given:

"Secondly, that where the council of a borough is the pri authority, the order for the contribution be made at a sp meeting of the council:

"Thirdly, that where the contribution is for alteration, enlar ment, rebuilding, establishment or building of a school intended school, or for purchase of land, the approval of t secretary of state be previously given for that alteration, e largement, rebuilding, establishment, building or purchas

Mode of obtaining Sanction of Secretary of State.] Sect. 29. " order to obtain the approval of the secretary of state as afores where required, the managers of the school, or promoters of t intended school, shall forward to the secretary of state particulars the proposed establishment or purchase, and a plan of the propo alteration, enlargement, rebuilding or building, drawn on such sc and accompanied by such particulars and estimate of cost, as t

159 *Definition of "Prison Authority."*] "Prison authority" is, b sect. 3, to mean the same persons as are defined to be such by "Th Prisons Act, 1865," 28 & 29 Vict. c. 126; see sect. 5 of that act.

tary of state thinks fit to require;—and the secretary of state approve of the plan and particulars submitted to him, with or out modification, or may disapprove of the same, and his ap- al or disapproval shall be certified by writing under his L." 29 & 30 Vict. c. 117.

penses of Prison Authorities and County Boards, how defrayed.] 30. "Expenses incurred by a prison authority in England in ring into effect the provisions of this act shall be deemed nses incurred by that authority in carrying into effect the isions of 'The Prisons Act, 1865,' and shall be defrayed rdingly."

II. *Powers of Managers, &c. of Schools.*

wer to make Rules, &c.] By 29 & 30 Vict. c. 117, s. 12, "The agers of any certified reformatory school may from time to time e all necessary rules for the management and discipline of the ol under their charge, but such rules shall not be contrary to the isions of this act, and shall not be enforced until they have been nitted to and approved in writing by the secretary of state, and lteration shall be made without the approval in writing of the etary of state in any rules so approved." 160

ficers to have Privileges, &c. of Constables.] Sect. 13. "Every er of a certified reformatory school authorized by the managers he school, in writing under their hands or the hand of their etary, to take charge of any youthful offender sentenced to ntion under this act for the purpose of conveying him to or n the school, or of bringing him back to the school in case of escape or refusal to return, shall, for such purpose and while aged in such duty, have all such powers, authorities, protection, privileges for the purpose of the execution of his duty as a rmatory officer as any constable duly appointed has within his stablewick by common law, statute, or custom."

'lacing Offenders out on Licence.] Sect. 18. "The managers of a ified reformatory school may, at any time after the expiration ighteen months of the period of detention allotted to a youthful nder, by licence under their hands, permit him to live with any stworthy and respectable person named in the licence willing to ive and take charge of him. Any licence so granted shall not in force for more than three months, but may at any time before expiration of such three months be renewed for a further period exceeding three months, to commence from the expiration of previous period of three months, and so from time to time until youthful offender's period of detention is expired. Any such

160 The offender not conforming to these rules is liable to imprison- nt. See Offence 1, Vol. I. p. 732, tit. "*Reformatory Schools.*"

29 & 30 Vict. c. 117.

licence may also be revoked by the managers of the schoo writing under their hands, at any time before the expiration of period of three months, and thereupon the youthful offend whom the licence related may be required by the manager writing under their hands, to return to the school.161 The during which a youthful offender is absent from a certified r matory school in pursuance of a licence under this section s except where such licence has been forfeited by his misconduc deemed to be part of the time of his detention in the school, a the expiration of the time fixed by his licence he shall be t back to the school."

Power to apprentice Offenders.] Sect. 19. "The managers certified reformatory school may, at any time after an offende been placed out on licence as aforesaid, if he conducted himself during his absence from the school, bind him, with his own con apprentice to any trade, calling, or service, notwithstanding his period of detention has not expired;—and every such bin shall be valid and effectual to all intents."

III. *Recovery of Contribution from Parent of Offender.*

Order of Justices for Contribution to Maintenance of Offende School.] By 29 & 30 Vict. c. 117, s. 25, "The parent or step-pa or other person legally liable to maintain any youthful offe detained in a certified reformatory school 162 shall, if of suffic ability, contribute to his support and maintenance therein a not exceeding five shillings per week. On the complaint of inspector of reformatory schools, or of any agent of the inspec or of any constable under the directions of the inspector (v which directions the constable is hereby required to comply), at time during the continuance of the offender in the school, justices 163 . . . having jurisdiction at the place where parent, step-parent, or other person liable as aforesaid resi may, on summons to the parent or step-parent or other per liable as aforesaid, examine into his or her ability, and may they . . . think fit, make an order . . . on him or for the payment to the inspector of reformatory schools or to agent of the inspector, of such weekly sum, not exceeding shillings per week, as to them . . . seems reasonable, duri the whole or any part of the period for which the offender is hal to be detained in the school. Every such order . . . m

161 The offender refusing to return or escaping from the place is hal to be imprisoned. See Offence 3, Vol. I. p. 732, tit. "*Reformat Schools.*"

162 For evidence of a child being in a school, see sect. 33, Vol. I. 372, *Note* 371.

163 For definition of "justices," see Vol. I. p. 210, *Note* 67.

ify the time during which the payment is to be made, or may until further order. * * * * * * Every such payment ll go in relief of the charges on her Majesty's treasury, and ll be accounted for as the commissioners of her Majesty's asury direct. The secretary of state may, in his discretion, it all or any part of any payment so ordered." 29 & 30 Vict. c. 117.

Variation of Order.] Sect. 26. "Any justices . . . having isdiction to make such order . . . may from time to time y the same as circumstances require, on the application either the person on whom the order . . . is made, or of the pector of reformatory schools, or of any agent of the inspector, fourteen days' notice being first given of such application to inspector or agent, or to such person respectively."

Recovery of Sums ordered.] By sect. 34, the 11 & 12 Vict. c. 43, o apply to all "payments and orders in respect to which juristion is given to justices . . . by this act, or which are by act directed to be . . . enforced and made in a summary nner," *i. e.* by distress (Id. s. 19, Vol. I. p. 225); and in default prisonment for not exceeding three calendar months, unless the ount be sooner paid (Id. ss. 22, Id. p. 228).

Forms.] Forms of Complaint, Summons, Order, &c., are given schedule to the act, and are set out in Oke's "*Formulist*," 6th pp. 942—944, Nos. 1—5, sect. 36, providing that "no summs, notice, or order made for the purpose of carrying into effect provisions of this act shall be invalidated for want of form ly;—and the forms in the schedule to this act annexed, or forms the like effect, may be used in the cases to which they refer, th such variations as circumstances require, and when used shall deemed sufficient."

REFRESHMENT HOUSES AND WINE LICENCES.

See "*Intoxicating Liquors.*"

RIOTS.

Definition of a "Riot" or "Rout." See Offence 474, *ante*, p. 66 and *Note* 115 thereto.

Appointment of Special Constables.] For counties, &c. under 1 & 2 ill. 4, c. 41, see *ante*, p. 1352; for boroughs, annually in October, *ante*, p. 1358.

The Proclamation.] The Riot Act, 1 Geo. 1, st. 2, c. 5, provides sect. 1, "that if any persons, to the number of twelve or more, ing unlawfully, riotously, and tumultuously assembled together, the disturbance of the public peace, . . . and being thereto required or commanded by any one or more justice or justices the peace, or by the sheriff of the county, or his under-sheriff, 1 Geo. 1, st. 2, c. 5.

[illegible] or [illegible] or other head officer, or ju[illegible] [illegible] corporate, where such assem[illegible] [illegible] to be made in the king's name, in [illegible] to disperse themselves, and peaceabl[illegible] [illegible] their lawful business," shall [illegible] together, by the space of one [illegible] made by proclamation they [illegible] [illegible] "*Riots*," *ante*, p. 1[illegible] [illegible]:—and by sect. 2, "that [illegible] that shall be made by [illegible] be as hereafter followed; that is to [illegible] [illegible] person authorized by this [illegible] among the said rioters, o[illegible] [illegible] with a loud voice comm[illegible] [illegible] to be while proclamatio[illegible] [illegible] and with loud voice make [illegible] in these words, or like in effec[illegible]

"[illegible] the [illegible] chargeth and commandeth [illegible] immediately to disperse themselves, [illegible] to their habitations, or to their lawful busin[illegible] [illegible] in the act made in the first year of [illegible] for preventing tumults and riotous assemblies. God save [illegible]."

"And every such justice and justices of the peace, she[illegible] [illegible] and other head officer afores[illegible] [illegible] respective jurisdictions, are her[illegible] [illegible] and required, on notice or knowledge [illegible] and tumultuous assembly, to resor[illegible] [illegible] riotous, and tumultuous assem[illegible] [illegible] to the number of twelve or more, and there [illegible] proclamation in manner aforesaid."

The exact form of the proclamation must be used, excepting [illegible] "queen" for the "king," although the statute s[illegible] [illegible] effect." Mr. Baron Vaughan and Mr. Just[illegible] [illegible] accordingly decided that the indictment must fail whe[illegible] "God save the King" was omitted (*Reg.* v. *Child*, 4, Car. & P. 44[illegible] And where the indictment, in setting out the proclamation, co[illegible] [illegible] the additional words "of the reign of" after the words "fi[illegible] year." Mr. Justice Patteson held the variance fatal (*Rex* [illegible] *Woolcock*, 5, Car. & P. 516). The person assembled may be appr[illegible] hended whether the hour has elapsed or not; but those remain[illegible] for that period after proclamation made are subject to a grav[illegible] punishment, and may be seized by a justice, constable or oth[illegible] person called upon to assist, and taken before a justice (1 Geo. [illegible] st. 2, c. 5, s. 3). For a fuller explanation of the duties of justice with reference to the suppression of riots, see *Rex* v. *Pinney*, 5 Car. & P. 254; 3 B. & Ad. 947. The military may be called upon b[illegible]

magistrates to act, if it should be found necessary. For remedies 1 Geo. 1, st. 2
inst the hundred in case of damage by rioters, see *ante*, pp. 1156 c. 5.
41, title "*Hundred;*" and for riotously demolishing or injuring
dings, &c., see title "*Riots,*" *ante*, p. 1166, Offences 476, 477.

RIVERS AND NAVIGATION.

he 19 Geo. 2, c. 22, s. 3, authorizes one or more justices to sum- 19 Geo. 2,
the owner or master of a ship sunk or stranded, &c., in a c. 22.
our and remaining there, and to issue warrant for seizing and
oving the ship and tackle, and unless the owner give security
in five days, to make sale of the same. See 5 Burn's Jus. 29th
p. 767.

SANITARY ACTS. See "*Public Health,*" "*Nuisances.*"

SHOOL BOARDS.

ecovery of Amount in Precept of School Board.] See 33 & 34
c. 75, s. 56, the amount being recovered as a poor rate [see
"*Rates,*" *ante*, p. 1582] by an officer appointed by the board, if
rating authority (the overseers in ordinary parishes, in boroughs
council, first schedule) makes default in paying the amount
ified in the precept.

udit of Accounts.] By poor-law auditor (s. 60).

ndustrial Schools—Wandering Children.] See sects. 27 & 28, as
ontribution of school boards towards industrial schools, *Note* 51,
, p. 1434, and sect. 36, as to appointment of officer to bring
titute children before justices, in *Note* 54, *ante*, p. 1436.

SEAMEN. 164.

I. *Recovery of Seamen's Wages.*
II. *Recovery of Master's Wages.*
III. *Recovery of Allotment Notes.*
IV. *Repayment of Relief to Seamen's Families.*

I. *Recovery of Seamen's Wages.*

mount not exceeding, £50.] By sect. 188, any seaman 165 or ap- 17 & 18 Vict.
ntice, or any person duly authorized on his behalf 166—may c. 104.

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164 "The Merchant Shipping Act Amendment Act, 1862," 25 & 26
. c. 63, s. 13, applies some of the provisions of the 17 & 18 Vict.
104 to "Fishing Boats," "Lighthouse Vessels" and "Pleasure
chts," for which see tit. "*Fishing Boats,*" *ante*, p. 1401. By 25 & 26
. c. 63, s. 65, the 3rd section of the 20 & 21 Vict. c. 43, Vol. I. p. 263
cept so much as provides for the payment of fees to the justices'
rk), is not to apply "to any proceeding under the direction of the
ard of Trade, or under or by virtue of the 17 & 18 Vict. c. 104, or this
, or any act amending the same."

165 *Definition of "Seaman" and "Ship."*] See *Note* 298, Vol. I. p. 573.
e also sect. 109, as to what ships the act is applicable.

166 Under the repealed act 7 & 8 Vict. c. 112, s. 15, it was held that

sue in a summary manner before any two justices of the peace a
in or near to the place at which the service has terminated,—
which the seaman or apprentice has been discharged,—or at
any person upon whom the claim is made is or resides,—* *
any amount of wages due to such seaman or apprentice not ex
ing £50 167 over and above the cost of any proceeding for th
recovery thereof, so soon as the same becomes payable; and
order made by such justices * * * in the matter shall be final [an
subject to appeal even on a question of law, *Calligan* v. *Dod*
26 L. J. (N. S.) M. C. 110; 21 Law T., N. S. 827]. By sect. 1
appears that suits may be brought for wages not exceeding £
superior courts in certain cases—*i. e.* if the owner of the ship i
judged bankrupt or declared insolvent,—or the ship is under a
or is sold by due authority,—or the justices refer the case 168
adjudged by the superior court,—or where neither the owner
master is or resides 169 within twenty miles of the place where
seaman or apprentice is discharged or put ashore. By sect. 19
seaman can sue for wages abroad, except in cases of discharge
danger to life. See Admiralty Court Act, 24 Vict. c. 10, s. 10.

Who to be Defendant.] The master or owner is to be the de
dant, as by sect. 187, noticed *infra*, he is made liable for the wa

Evidence:—Agreement of Hiring—Right to Wages—Deduct
Forfeitures, &c.] Apprentices to the sea service are bound in
manner provided by the sects. 141—145. The agreements
seamen are regulated by the following sections:—sect. 149, as to
particulars the agreement must contain, and in the form sanctio
by the board of trade;—sects. 150—154, as to agreements mad
the United Kingdom for foreign-going ships;—sect. 155, in h
trade ships agreements to be entered into before a shipping ma
or other witness;—sect. 156 allows special agreements to be m
for home trade ships belonging to same owners;—sect. 159, sea
engaged in the colonies to be shipped before some shipping ma
or officer of customs;—sect. 160, seamen engaged in foreign po
to be shipped with the sanction and in the presence of the consu

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the justices could not interfere on the application of the administra
a *deceased* seaman. (*Hollingsworth* v. *Palmer*, 4 Exch. 267). That de
sion will apply to the present act.

167 The seaman may abandon any excess above £50, so as to bring
complaint within the jurisdiction of justices. If he is appointed
higher office during a voyage, he is entitled to the higher wages with
any confirmation of his appointment (*Hanson* v. *Royden*, 17 Law T
N. S. 214).

168 This reference would be done by way of an order in those
where the evidence of other accounts between the parties disclosed
beyond the justices' jurisdiction to determine. Form, Oke's "*Formula*
6th ed. No. 9, p. 951.

169 This does not mean a temporary residence (*The Blakeney*, 5 Ju
N. S. 418, Admiralty).

. 163, alterations in agreements to be void unless attested to 17 & 18 Vict.
e been made with consent of all parties;—sect. 165, seamen not c. 104.
ad to produce agreement, but it may be proved by parol without
ce to produce, and without the attesting witness (s. 526).

Then Wages accrue, are due, &c.] The wages commence either
he time the seaman, &c. commences work or at the time specified
he agreement (s. 181), and his wages are not dependent on the
ning of freight;—but see the section as to loss of ship (s. 183).
case of death of seamen, &c. before payment, master is to pay
amount to consul or shipping master with full accounts; and in
e of death during a voyage, to sell effects of the seamen and
ount in same manner (ss. 184, 194, 195). In cases where the
rice of the seaman terminates by wreck or loss of the ship, or by
seaman being left abroad under a certificate of his unfitness or
bility to proceed on the voyage granted by some functionary,
seaman is entitled to wages for the time of service prior to such
mination (s. 185; and see s. 209). The wages are not to accrue
ring refusal to work or imprisonment (s. 186). By 30 & 31 Vict.
124, s. 7, whenever it is shown that any seaman or apprentice
o is ill has, through the neglect of the master or owner, not been
vided with proper food and water according to his agreement,
with such accommodation, medicines, medical stores, or anti-
rbutics as are required by the principal act or by this act, then,
less it can be shown that the illness has been produced by other
uses, the owner or master shall be liable to pay all expenses
operly and necessarily incurred by reason of such illness (not
ceeding in the whole three months' wages), either by such
aman himself, or by her Majesty's government, or any officer of
r Majesty's government, or by any parochial or other local
thority on his behalf, and such expenses may be recovered in the
me way as if they were *wages* duly earned:—provided that this
actment shall not operate so as to affect any further liability of
y such owner or master for such neglect, or any remedy which
y seaman already possesses. By sect. 8, where a seaman is by
ason of illness incapable of performing his duty, and it is proved
at such illness has been caused by his own wilful act or default,
e shall not be entitled to wages for the time during which he is by
eason of such illness incapable of performing his duty. 17 & 18
Vict. c. 134, s. 175, contains the rules to be observed with respect
o the settlement of wages;—and sect. 187 enacts, that the master
r owner of every ship shall pay to every seaman [not apprentice]
is wages within the respective periods following; (that is to say,)
-in the case of a home trade ship, within two days after agreement
erminated, or at the time of seaman's discharge, whichever first
appens; and in the case of all other ships (except ships in the
outhern whale fishery and similar voyages), within three days

[illegible] after delivery of cargo, or within five days after the seaman [illegible] whichever first happens;—and in all cases the sea[illegible] entitled at the time of discharge to be paid on account a sum [illegible] of the balance due to him;—and if the master or [illegible] neglects or refuses to make payment, he is to pay to the sea[illegible] sum not exceeding two days' pay for each of the days, not exc[illegible] ten days, during which payment is delayed beyond the resp[illegible] [illegible] and this is applicable to the master also, [illegible] has not been guilty of any dereliction of duty in furnishi[illegible] [illegible] (*The Princess Helena*, 30 L. J. (N. S.) Adm. 137; 4 L[illegible] N. S. [illegible]), and which sum is recoverable as wages. 170 By [illegible] seamen discharged before voyage commenced, or befo[illegible] month, without fault on their part, to be entitled to any [illegible] earned and compensation not exceeding a month's wages, to b[illegible] [illegible] as wages. As to the discharge of seamen and pay[illegible] of their wages, see sects. 17[illegible]—174. Seamen discharged abroad [illegible] sale of ship or otherwise, to be sent home at expense of owner, [illegible] if not sent home expenses to be recovered as wages (s. 205). 17[illegible] and see sects. 2[illegible], 2[illegible], 2[illegible], as to the manner of paying and reco[illegible] ing wages when seamen are left abroad on the ground of inabil[illegible] and 25 & 26 Vict. c. 63, s. 19.

Seamen's Wages when lost with ship.] Customs' officers to t[illegible] charge of seaman's effects (s. 197; and 25 & 26 Vict. c. 63, s. [illegible] By 25 & 26 Vict. c. 63, s. 21, the wages of seamen or apprent[illegible] who are lost with the ship to which they belong may be recove[illegible] by the board of trade "from the owner of the ship in the s[illegible] manner in which seamen's wages are recoverable."

Deductions from Wages.] As to deductions from wages on acco[illegible] of illness, see s. 2[illegible], articles 3 and 4;—expenses on conviction [illegible] seamen, s. 2[illegible];—and fines for misconduct, an entry thereof hav[illegible] been made in the official log, s. 256. As to entries in the offi[illegible] log, see ss. 2[illegible], 2[illegible], 2[illegible], 284, 285, 287, 244. As to forfeiture [illegible] wages, or part of wages,—on desertion, wilful disobedience of co[illegible] mands, smuggling, &c. (s. 243, see *Lewis* v. *Jewhurst*, 15 Law [illegible] N. S. 2[illegible], as to consul's certificate of desertion under sect. 10[illegible] entry thereof being made in the official log (s. 250);—and see [illegible] 2[illegible]—254 as to how amount of forfeitures are to be ascertained [illegible] certain cases.

Procedure for Recovery—Competency of both Parties to give Ev[illegible] dence.] Within six months after the cause of complaint arose: [illegible]

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170 See *Fraser* v. *Hatton*, 26 L. J. (N. S.) C. P. 226.

171 It is questionable whether, if the seaman does not signify his co[illegible] sent to terminate the agreement, he can recover compensation in t[illegible] nature of wages before magistrates for the time elapsed from the time [illegible] sale of the ship abroad and his arrival home. (See sect. 190.)

17 & 18 Vict. c. 104.

oth or either of the parties happen during such time to be out of United Kingdom, within six months after they both first happen arrive or be at one time within the same (s. 525, art. 3; and see ten v. *Olsen*, 37 L. J. (N. S.) M. C. 34; 17 Law T., N. S. 537), ore two justices (sect. 188, p. 1598), or one stipendiary magistrate 519), acting in or near to the place at which the service has ninated, or at which the seaman or apprentice has been dis-rged, or at which any person upon whom the claim is made r resides (s. 188; and see s. 521, as to jurisdiction over ships ig off the coasts). The summons may be served either personally, at the last place of abode of the person, or by leaving such mons for him on board any ship to which he may belong with person being or appearing to be in command or charge of such ps (s. 522). The defendant is a competent witness for himself the complainant, as the adjudication is an order and not a con-tion (14 & 15 Vict. c. 99, s. 2, Vol. I. pp. 81, 82). The amount be recovered with costs, in the manner directed by the 11 & 12 t. c. 43 [which latter act, by ss. 14, 17, Vol. I. pp. 192, 193, vides for the making of an order and the service of a minute reof before enforcing payment], *i. e.* by distress and sale of the endant's goods (s. 19, Vol. I. p. 225);—and in the case where party directed to pay is the owner or master of a ship, the ount may be levied by distress or poinding and sale of the said p, her tackle, furniture and apparel (s. 523);—and in default of tress, the defendant may be committed to prison for not exceed-g three calendar months without hard labour, unless sooner paid & 12 Vict. c. 43, s. 22, Vol. I. p. 228). [Forms, Nos. 1—8, pp. 0, 951, Oke's "*Formulist*," 6th ed.]

II. *Recovery of Master's Wages.*

By 17 & 18 Vict. c. 104, s. 191,—"Every master of a ship shall, far as the case permits, have the same rights, liens and remedies the recovery of his wages which by this act or by any law or stom any seaman, not being a master, has for the recovery of his ages;"—but if any set-off or complaint is set up, the justices nnot adjudicate, the section further enacting, "and if in any oceeding in any Court of Admiralty or Vice-Admiralty touching e claim of a master to wages, any right of set-off or counter-aim is set up, it shall be lawful for such court to enter into d adjudicate upon all questions, and to settle all accounts then rising or outstanding and unsettled between the parties to the oceeding, and to direct payment of any balance which is found be due." (*Vide* "*Procedure for Recovery, &c.*," p. 1600, and 4 Vict. c. 10, s. 10, as to proceedings in Court of Admiralty.)

17 & 18 Vict. c. 104.

III. *Recovery of Allotment Notes.* 172

Stipulations as to, in Agreement with Seaman.] By 17 & 18 c. 104, s. 168, stipulations for the allotment of any part of wages of a seaman [not a master or pilot, or an apprentice *definition of "Seaman," in sect. 2, Note* 286, Vol. I. p. 578] du his absence which are made at the commencement of the voy are to be inserted in the agreement, and are to state the amo and times of the payments to be made;—and all allotment note to be in a form sanctioned by the Board of Trade (and see s. 14

Wife and other Relatives of Seaman may recover.] By sect. —the wife—or the father or mother,—or the grandfather or gra mother,—or any child or grandchild,—or any brother or sister any seaman in whose favour an allotment note of part of the wa of such seaman is made, may, unless the seaman is shown in man hereinafter mentioned to have forfeited or ceased to be entitle the wages out of which the allotment is to be paid,—and subjec to the wife, to the provision hereinafter contained,—sue for recover the sums allotted by the note when and as the same made payable, with costs, from the owner, or any agent who authorized the drawing of the note 173—either in the county or in the summary manner in which seamen are by this act enal to sue for and recover wages not exceeding £50 [*i. e.* before justices, &c., see s. 158, *ante*, p. 1599]; and in any such proceedi it shall be sufficient for the claimant to prove that he or she is person mentioned in the note,—and that the note was given by owner or by the master, or some other authorized agent;—

And the seaman shall be presumed to be duly earning his wa unless the contrary is shown to the satisfaction of the court, eit by the official statement of the change in the crew caused by absence, made and signed by the master, as by this act is requir —or by a duly certified copy of some entry in the official log bo to the effect that he has left the ship,—or by a credible letter fr the master of the ship to the same effect,—or by such other evidenc of whatever description, as the court in its absolute discretion o siders sufficient to show satisfactorily that the seaman has ceased be entitled to the wages out of which the allotment is to be paid:

Provided that the wife of any seaman who deserts her childre

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172 *Advance* notes were entirely superseded by the 17 & 18 Vict. c. after the 1st May, 1855, when that act came into operation, so far as recovery of them before justices is concerned. Allotment notes are c monly known as "Half-pay notes."

173 It is the duty of the shipping master to draw the allotment n and if drawn on the agent of the owner, he usually does so on a writ authority from such agent, who may then be the defendant in these p ceedings. Forms, Oke's "*Formulist*," 5th ed. Nos. 10, 11, p. 951, 9

) misconducts herself as to be undeserving of support from her 17 & 18 Vict.
and, shall thereupon forfeit all right to further payments of any c. 104.
ment of his wages which has been made in her favour. (*Vide* *cedure for Recovery, &c.,*" p. 1600.) [Forms, Nos. 12, 13, Oke's *rmulist,*" 6th ed. p. 952.]

IV. *Repayment of Relief to Seamen's Families.*

y 17 & 18 Vict. c. 104, s. 192, a seaman's family may, in his nce, if they become chargeable, be relieved in proportions men- ed in this section; and by sect. 193, for the purpose of obtaining ibursement by the guardians or overseers, they must give to the er of the ship in which the seaman is serving a notice in writing, ing the proportion of the seaman's wages upon which it is in- ed to make the claim, and requiring the owner to retain such ortion for a period to be therein mentioned, not exceeding ity-one days from the time of the seaman's return to his port of harge, and also to give notice to the guardians or overseers of n return, which the owner is bound to do accordingly;—and the guardians, overseers, &c., may upon the seaman's return apply summary way . . . to any two justices having jurisdiction in n union or parish . . . for an order for such reimbursement . . .; nd such justices . . . may hear the case, and may make an order such reimbursement to the whole extent aforesaid, or to such er amount as they may under the circumstances think fit;—and owner shall pay to such guardians, overseers, &c., out of the man's wages, the amount so ordered to be paid by way of reim- sement, and shall pay the remainder of the said wages to the man;—and if no such order is obtained within the period men- ed in the notice [*i. e.* not exceeding twenty-one days from the man's return] so to be given by the owner, the proportion of ges so to be retained by him . . . shall immediately on the expi- on of such period, and without deduction, be payable to the man. [Forms of Complaint, Summons and Order, Nos. 17—19, e's "*Formulist,*" 6th ed. p. 953.]

SEARCH WARRANT.

A justice may grant a search warrant in the following cases longst others):—

In cases of Summary Conviction.] Tit. "*Larceny,*" Vol. I. *Note* 223, p. 534.

For Stolen Property, Indictable.] *Ante*, p. 889.

For Counterfeit Coin, Coining Tools, &c.] *Ante*, p. 1348.

For Gunpowder under Malicious Injuries Act.] *Ante*, p. 1103, *Note* 74.

For Forged Instruments, Paper.] *Ante*, p. 1087, *Note* 62.

For Petroleum.] *Ante*, p. 1536.
For Nitro-Glycerine.] *Ante*, p. 1497.
For Forged Stamps.] *Post, tit.* "*Stamps.*"

34 & 35 Vict. c. 112.

Chief Officer of Police to authorize Constable to search for Stolen Property—Justices, where no Charge preferred to summon Person having such Property to account for same.] See sect. 16, set out *ante*, p. 890, and *Note* 23 *thereto.*

SEWAGE UTILIZATION. See "*Public Health,*" "*Nuisances.*"

SEWERS.

See 24 & 25 Vict. c. 133, *ante*, p. 1381, tit. "*Drainage,*" as to commissions of sewers for drainage of land for agricultural purposes.

SHEEP AND CATTLE (OR CATTLE PLAGUE).

41 & 42 Vict. c. 74.

The Contagious Diseases (Animals) Act, 1878 (41 & 42 Vict. c. 74), "An act for making better provision respecting contagious diseases of cattle and other animals and for other purposes," repealing as it does all former provisions, is now the only legislative enactment upon the subject. Governing as it does so important a branch of our domestic economy, it has been thought desirable that the whole of its provisions, as they apply to England should be given in their entirety, the more especially as throughout, it will be seen that the authority of the magistracy is constantly called into requisition. The sections, schedules, and orders in council are as follows:—

"PART I.—*General.*

"1. *Short Title.*] This act may be cited as the Contagious Diseases (Animals) Act, 1878.

"2. *Commencement of Act.*] (1.) This act shall, except as otherwise expressed, commence and have effect from and immediately after the thirtieth day of September, one thousand eight hundred and seventy-eight, which time is in this act referred to as the commencement of this act.

"(2.) But on and after the passing of this act any order of council and order in council necessary or proper for bringing this act into operation at the commencement thereof, and any order or regulation of a local authority authorized by any such order of council or in council, may be made so that the same do not take effect before the commencement of this act; and on and after the passing of this act any committee and any inspector or other officer may be appointed to act under this act as from the commencement thereof.

3. *Division of Acts into Parts.*] This act is divided into parts, 41 & 42 Vict. c. 74.
llows:

"Part I.—General.

"Part II.—England.

"Part III.—Scotland.

"Part IV.—Ireland.

4. *Repeal of Enactments in Schedule, with Savings and other Pro-*
ns.] (1.) The enactments described in the first schedule are
by repealed, subject to the qualifications and exceptions in this
mentioned.

(2.) The repeal of enactments or any other thing in this act
ll not—

(i.) Affect the past operation of any of those enactments, or any
er of council or in council or regulation of a local authority
le, or any licence granted, or any committee or sub-committee
stituted, or any appointment made, or any right, title, obligation,
iability accrued, or any money borrowed, or any market, wharf,
, landing-place, or other accommodation provided, or any rate
mortgage made, or the validity or invalidity of anything done or
fered, under any of those enactments before the commencement
this act:

"(ii.) Interfere with the institution or prosecution of any action
proceeding, civil or criminal, in respect of any offence committed
inst, or penalty or forfeiture incurred or liability accrued under
in consequence of, any of those enactments or any order or
gulation made thereunder:

"(iii.) Take away or abridge any protection or benefit given or
be enjoyed in relation thereto.

"(3.) Notwithstanding the repeal of enactments or any other
ing in this act, every order of council and in council and other
ing in this section mentioned shall continue and be as if this act
d not been passed; but so that the same may be revoked, altered,
: otherwise dealt with under this act, as if it had been made or
one under this act.

"(4.) This act, instead of the Contagious Diseases (Animals) Act,
869, shall be deemed to be referred to in the Destructive Insects
ct, 1877; and penalties under the provisions of that act relating to
reat Britain shall be recoverable in manner provided in Parts II.
nd III. of this act.

"5. *Interpretation and Construction.*] (1.) In this act—

"(i.) 'Cattle' means bulls, cows, oxen, heifers, and calves:

"(ii.) 'Animals' means, except where it is otherwise expressed,
attle, sheep, and goats, and all other ruminating animals, and
wine:

"(iii.) 'Disease' means cattle plague (that is to say, rinderpest,
r the disease commonly called cattle plague), contagious pleuro-

[illegible] pneumonia of cattle (in this act called pleuro-pneumonia), foot-mouth disease, sheep-pox, or sheep-scab:

"(iv.) 'Diseased' means affected with disease:

"(v.) 'Suspected' means suspected of being diseased:

"(vi.) 'Carcase' means the carcase of an animal, and incl[illegible] part of a carcase, and the meat, bones, hide, skin, hoofs, horns, [illegible] or other part of an animal, separately or otherwise, or any po[illegible] thereof:

"(vii.) 'Fodder' means hay or other substance commonly [illegible] for food of animals:

"(viii.) 'Litter' means straw or other substance commonly [illegible] for bedding or otherwise for or about animals:

"(ix.) 'Foreign,' applied to a country, denotes a country [illegible] the United Kingdom of Great Britain and Ireland, and applied [illegible] animals and things, means brought to the United Kingdom [illegible] Great Britain and Ireland from a foreign country:

"(x.) 'Inspector of the privy council' or 'inspector of a l[illegible] authority' means a person appointed to be an inspector for p[illegible] poses of this act, by the privy council, or by a local authority [illegible] the case may be; and 'inspector,' used alone, means such a per[illegible] by whichever authority appointed:

"(xi.) 'Veterinary inspector' means an inspector being a mem[illegible] of the Royal College of Veterinary Surgeons, or any veterin[illegible] practitioner qualified as approved by the privy council:

"(xii.) 'Treasury' means the commissioners of her Majes[illegible] Treasury:

"(xiii.) 'The corporation of London' means the mayor [illegible] commonalty and citizens of the city of London, acting by [illegible] mayor, aldermen, and commons of that city, in common cou[illegible] assembled:

"(xiv.) 'The Customs Acts' means the Customs Consolidati[illegible] Act, 1876, and any enactment amended or substituted for that a[illegible]

"(xv.) 'Justice' means justice of the peace:

"(xvi.) 'Court of summary jurisdiction' means two or mo[illegible] justices sitting in petty sessions at a court or other public pla[illegible] appointed in that behalf, or a police, stipendiary, or other mag[illegible] trate or officer, however designated, having by law power to act [illegible] any purpose with the authority of two justices, and sitting at [illegible] police court or other place appointed in that behalf:

"(xvii.) 'Railway company' includes a company or person [illegible] working a railway under lease or otherwise:

"(xviii.) 'Person' includes a body corporate or unincorporate [illegible]

"(xix.) 'Part' means part of this act, and 'schedule' mean[illegible] schedule to this act.

"(2.) The schedules shall be construed and have effect as part o[illegible] this act.

(3.) In the computation of time for purposes of this Act, a 41 & 42 Vict.
od reckoned by days from the happening of an event or the c. 74.
g of an act or thing shall be deemed to be exclusive of the
on which the event happens or the act or thing is done.

"PART II.—*England.*

6. *Extent of Part II.*] Part II. applies to England.

7. *Definition of County and other Districts.*] In and for purs of Part II.—

(i.) 'County' does not include a county of a city or a county of wn, but includes a riding or division or parts of a county ing a separate commission of the peace:

(ii.) The liberty of the isle of Ely and the soke of Peterborough each a county:

(iii.) Every other liberty or franchise of a county is part of the nty by which it is surrounded, or, if partly surrounded by two nore counties, is part of that county with which it has the gest common boundary:

(iv.) 'Metropolis' has the same meaning as in the Metropolis nagement Act, 1855:

(v.) 'Borough' means—

(a.) A place for the time being subject to the Municipal Coration Act, 1835; or

(b.) A place having for the time being under any general or l act of parliament, or otherwise, a separate police establishnt:

(vi.) Every place not being a county, borough, part of the tropolis, or named in the second schedule, forms part of the nty to the county rate whereof it is assessed, or, if it is not so essed, forms part of the county wherein it is situate.

Privy Council.

'8. (1.) *Powers of Privy Council.*] In this act her Majesty's st honourable privy council is referred to as the privy council, l an order of the privy council under this act is referred to as an ler of council.

'(2.) Powers by this act conferred on the privy council may be ercised by the lords and others of the privy council, or two of m; and, as regards the making of orders and doing of acts ecting only particular local authorities, persons, ports, towns, tricts, places, areas, vessels, or things, and as regards the ning and revocation of licences, and the appointment or removal inspectors and other officers, may be exercised by the lord presint of the council or one of her Majesty's principal secretaries of ate.

41 & 42 Vict. c. 74.

Local Authorities.

"9. *Local Authorities described in Schedule.*] For the pur of this part, the respective districts, authorities, rates, and of described in the second schedule, shall be the district, the authority, the local rate, and the clerk of the local authority subject as regards the metropolis to the following provisions:

"(i.) The corporation of London shall alone be the local au rity in and for the metropolis for the purposes of the provisio this act relating to foreign animals:

"(ii.) The city of London and the liberties thereof shall co bute for purposes of this act to the metropolitan consolidated r

"(iii.) No part of the expenses of the local authority for a co shall be included in any precept or warrant for the levying or lection of a county rate within the metropolis.

"*Cattle Plague.*

"10. *Declaration of Infected Place in Cattle Plague by Inspe* (1.) Where it appears to an inspector that cattle plague exist has within ten days existed, in a cow-shed, field, or other plac shall forthwith make and sign a declaration thereof.

"(2.) He shall serve a notice, signed by him, of that declar on the occupier of that cow-shed, field, or other place.

"(3.) Thereupon that cow-shed, field, or other place, with lands and buildings contiguous thereto in the same occupa shall become and be a place infected with cattle plague, subje the determination and declaration of the privy council.

"(4.) The inspector shall serve a like notice, signed by h unless, in the circumstances, this appears to him not to be expedi on the occupiers of all lands and buildings, any part whereof lie his judgment within one mile in any direction from that cow-sh field, or other place, or on the occupiers of any of those land buildings.

"(5.) Thereupon, all the lands and buildings aforesaid, on occupiers whereof the inspectors serve such a notice, shall beco and be part of the aforesaid place infected with cattle plague, su ject to the determination and declaration of the privy council.

"(6.) The inspector shall, with all practicable speed, inform t privy council and the local authority of his declaration and notic and shall send to the privy council his declaration and a copy his secondly-mentioned notice (if any).

"(7.) The privy council shall forthwith on receipt of the info mation inquire into the correctness of the inspector's declaration.

"(8.) If the privy council are satisfied of the correctness of th declaration as regards the existence or past existence of catt plague, they shall by order determine and declare accordingly, an prescribe the limits of the place infected with cattle plague.

(9.) If the privy council are not satisfied of the correctness of inspector's declaration as regards the existence or past existence ttle plague, they shall by order determine and declare accord- y; and thereupon, as from the time specified in the order, the comprised in the inspector's declaration and notices shall to be a place infected with cattle plague. 41 & 42 Vict. c. 74.

11. *Declaration of Infected Place in Cattle Plague by Privy cil.*] The privy council may at any time, if they think fit, ny evidence satisfactory to them, by order declare any cow- , field, or other place, with or without any lands or buildings ining or near thereto, to be a place infected with cattle plague.

12. *Declaration of Infected Area in Cattle Plague.*] The privy cil may from time to time, if they think fit, by order declare area, wherein a place infected with cattle plague is situate, an area infected with cattle plague.

13. *Alteration of Infected Place or Area in Cattle Plague.*] The y council may from time to time, if they think fit, by order nd, contract, or otherwise alter the limits of a place or area ted with cattle plague.

14. *Declaration of Freedom from Cattle Plague.*] The privy cil may at any time, if they think fit, by order declare a e or area infected with cattle plague, or part thereof, to be from cattle plague.

15. *Slaughter by Privy Council in Cattle Plague, and Compensa- out of Public Money.*] (1.) The privy council shall cause to laughtered—

(i.) All animals affected with cattle plague:

(ii.) All animals being or having been in the same shed or le, herd or flock, or in contact, with an animal affected with le plague.

(2.) The privy council may, if they think fit, in any case se to be slaughtered—

(iii.) All animals suspected of cattle plague, or being in a place cted with cattle plague:

(iv.) All animals being in such parts of an area infected with le plague as are not comprised in a place infected with cattle gue (but in this last-mentioned case subject to such regulations he treasury from time to time think fit to make).

(3.) The privy council shall, for animals slaughtered under section, pay compensation as follows, out of money provided parliament:

(a.) Where the animal slaughtered was affected with cattle gue, the compensation shall be one half of its value immedi- ly before it became so affected, but so that the compensation not in any such case exceed twenty pounds:

41 & 42 Vict. c. 74.

"(*b.*) In every other case the compensation shall be the v of the animal immediately before it was slaughtered, but so the compensation do not in any case exceed forty pounds.

Pleuro-Pneumonia.

"16. *Declaration of infected place in Pleuro-Pneumonia by Authority.*] (1.) Where it appers to an inspector of a local a rity that pleuro-pneumonia exists, or has within fifty-six existed, in a cow-shed, field or other place, he shall forth make and sign a declaration thereof.

"(2.) He shall serve a notice, signed by him, of the dec tion on the occupier of that cow-shed, field or other place.

"(3.) Thereupon that cow-shed, field, or other place shall come and be a place infected with pleuro-pneumonia, subject t determination and declaration of the local authority.

"(4.) The inspector shall, with all practicable speed, inform local authority of his declaration and notice, and shall send declaration and a copy of his notice to the local authority.

"(5.) The local authority shall forthwith on receipt of that formation inquire into the correctness of the inspector's declara with the assistance and advice of a veterinary inspector, or person qualified according to this act to be such.

"(6.) If the local authority are satisfied of the correctness of inspector's declaration as regards the existence or past existen disease, they shall by order determine and declare accordingly, prescribe the limits of the place infected with pleuro-pneumo and may, if they think fit, include within those limits any land buildings adjoining or near to the cow-shed, field, or other plac which the inspector's declaration relates.

"(7.) The local authority may include in a place infected w pleuro-pneumonia any adjoining part of the district of another l authority, with the previous consent in writing of that author but not otherwise.

"(8.) If the local authority are not satisfied of the correctne the inspector's declaration as regards the existence or past exist of disease, they shall by order determine and declare according and thereupon, as from the time specified in that behalf in th order, the cow-shed, field, or other place to which the inspect declaration relates shall cease to be a place infected with pleu pneumonia.

"(9.) The local authority shall forthwith report to the pr council the declaration of the inspector, and the proceedings of t local authority thereon, and shall state whether or not it is, in th opinion expedient that an infected area, comprising the infec place, shall be declared, and, if so, what should, in their opin be the limits of that area, and whether or not there is within th

any place used for the holding of a market, fair, exhibtion, sale of cattle, and, if so, whether or not it is, in their opinion, edient that the holding in that area, while infected, of a market, , exhibition, or sale of cattle, should be prohibited or restricted rder of council. 41 & 42 Vict. c. 74.

(10) This section shall, notwithstanding anything therein con- ed, be construed and have effect subject to the subsequent sec- in this act contained, whereby the privy council are required make, by order, provision respecting the case of cattle found to ffected with pleuro-pneumonia while exposed for sale or ex- ited in a market, fair, sale-yard, or place of exhibition, and in er circumstances specified in the same section, and generally le being in a place not in the possession or occupation, or under control, of the owner of the cattle.

17. *Declaration or extension of Infected Place in Pleuro-Pneu- ia by Privy Council.*] (1.) The privy council may at any time, ey think fit, on any evidence satisfactory to them, by order declare cow-shed, field, or other place, with or without any lands or ldings adjoining or near thereto, to be a place infected with uro-pneumonia.

(2.) The privy council may from time to time, if they think fit, rder extend the limits of a place infected with pleuro-pneumonia, lared either by a local authority or by the privy council.

18. *Declaration of Infected Area in Pleuro-Pneumonia by Privy ncil.*] (1.) The privy council may at any time, if they think fit, any evidence satisfactory to them, by order declare any area rein a place infected with pleuro-pneumonia is situated to be area infected with pleuro-pneumonia, and may from time to e, if they think fit, by order extend the limits of such an area.

2.) The privy council, on making any such order, shall consider ther it is necessary or expedient to prohibit the holding in that , while infected, of any market, fair, exhibition, or sale of cattle, shall either prohibit the holding thereof accordingly, or allow same to be held on such terms and conditions as they think fit rescribe.

19. *Rules for Pleuro-Pneumonia.*] The rules set forth in the third edule shall have effect in relation to a place or area infected with uro-pneumonia.

20. *Declaration of Freedom from Pleuro-Pneumonia.*] (1.) ere a local authority have declared a place to be infected with uro-pneumonia, they may, if they think fit, at any time after expiration of fifty-six days from the date of the cessation rein of that disease, but not sooner, declare by order that place e free from pleuro-pneumonia.

(2.) Where the privy council or a local authority have declared lace to be infected with pleuro-pneumonia, the privy council

41 & 42 Vict. c. 74.

may, if they think fit, at any time after the expiration of fifty-six days from the date of the cessation therein of that disease, but not sooner, declare by order that place to be free from pleuro-pneumonia.

"(3.) Where the privy council have declared an area to be infected with pleuro-pneumonia, they may, if they think fit, at any time when there is not within that area, or within some particular portion thereof, any place infected with pleuro-pneumonia, declare by order that area, or that portion thereof, to be free from pleuro-pneumonia.

"**21.** *Slaughter by Local Authority in Pleuro-Pneumonia, and Compensation out of local rates.*] (1.) A local authority shall cause all cattle affected with pleuro-pneumonia to be slaughtered within two days after the existence of the disease is known to them.

"(2.) A local authority may, if they think fit, cause any cattle being or having been in the same shed or herd, or in contact, with cattle affected with pleuro-pneumonia to be slaughtered.

"(3.) The local authority shall out of the local rate pay compensation as follows for cattle slaughtered under this section:

"(i.) Where the animal slaughtered was affected with pleuro-pneumonia, the compensation shall be three fourths of its value immediately before it became so affected, but so that the compensation do not in any such case exceed thirty pounds:

"(ii.) In every other case the compensation shall be the value of the animal immediately before it was slaughtered, but so that the compensation do not in any case exceed forty pounds.

Foot-and-Mouth Disease.

"**22.** *Declaration of Infected Place in Foot-and-Mouth Disease by Local Authority.*] (1.) Where it appears to an inspector of a local authority that foot-and-mouth disease exists, or has within ten days existed, in a cow-shed, field, or other place, he shall forthwith make and sign a declaration thereof.

"(2.) He shall serve a notice, signed by him, of that declaration on the occupier of that cow-shed, field, or other place, and also on the occupier or occupiers of any lands or buildings contiguous thereto as he shall consider necessary.

"(3.) Thereupon that cow-shed, field, or other place shall become and be a place infected with foot-and-mouth disease, subject to the determination and declaration of the local authority.

"(4.) The inspector shall, with all practicable speed, inform the local authority of his declaration and notice, and shall send his declaration and a copy of his notice to the local authority.

"(5.) The local authority shall forthwith on receipt of that information inquire into the correctness of the inspector's declaration.

'(6.) If the local authority are satisfied of the correctness of 41 & 42 Vict. c. 74.
inspector's declaration as regards the existence or past exist-
e of disease, they shall by order determine and declare accord-
ly, and prescribe the limits of the place infected with foot-and-
uth disease, and may, if they think fit, include within those
its any lands or buildings adjoining or near to the cow-shed,
d, or other place to which the inspector's declaration relates.

'(7.) The local authority may include in a place infected with
t-and-mouth disease any adjoining part of the district of
other local authority, with the previous consent in writing of
t authority, but not otherwise.

'(8.) If the local authority are not satisfied of the correctness
the inspector's declaration as regards the existence or past
istence of disease, they shall by order determine and declare
ordingly; and thereupon, as from the time specified in that
half in their order, the cow-shed, field, or other place to which
inspector's declaration relates shall cease to be a place infected
th foot-and-mouth disease.

"(9.) The local authority shall forthwith report to the privy
ncil the declaration of the inspector, and the proceedings of the
al authority thereon, and shall state whether or not it is, in
ir opinion, expedient that an infected area, comprising the in-
ted place, shall be declared, and, if so, what should, in their
inion, be the limits of that area, and whether or not there is
thin that area any place used for the holding of a market, fair,
hibition, or sale of animals, and, if so, whether or not it is, in
ir opinion, expedient that the holding in that area, while in-
ted, of a market, fair, exhibition, or sale of animals should be
ohibited or restricted by order of council.

"(10.) This section shall, notwithstanding anything therein
ntained, be construed and have effect subject to the subsequent
ction in this act contained, whereby the privy council are re-
ired to make, by order, provision respecting the case of animals
und to be affected with foot-and-mouth disease while exposed
r sale or exhibited in a market, fair, sale-yard, or place of exhi-
tion, and in other circumstances specified in the same section,
d generally while being in a place not in the possession or occu-
tion, or under the control, of the owner of the animals.

"23. *Declaration or Extension of Infected Place in Foot-and-Mouth Disease by Privy Council.*] (1.) The privy council may at
ny time, if they think fit, on any evidence satisfactory to them,
y order declare any cow-shed, field, or other place, with or with-
ut any lands or buildings adjoining or near thereto, to be a place
ifected with foot-and-mouth disease.

"(2) The privy council may from time to time, if they think fit,
n any evidence satisfactory to them, by order extend the limits of

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a place infected with foot-and-mouth disease, declared either the privy council or by a local authority.

"24. *Declaration of Infected Area in Foot-and-Mouth Di by Privy Council.*] (1.) The privy council may at any time, if t think fit, on any evidence satisfactory to them, by order dec any area wherein a place infected with foot-and-mouth diseas situate to be an area infected with foot-and-mouth disease, may from time to time, if they think fit, by order extend the li of such an area.

"(2.) The privy council, on making any such order, shall c sider whether it is necessary or expedient to prohibit the hold in that area, while infected, of any market, fair, exhibition, or of animals, and shall either prohibit the holding thereof acc ingly or allow the same to be held on such terms and condition they think fit to prescribe.

"25. *Rules for Foot-and-Mouth-Disease.*] The rules set fort the fourth schedule shall have effect in relation to a place or infected with foot-and-mouth disease.

"26. *Declaration of Freedom from Foot-and-Mouth Disease.*] Where a local authority have declared a place to be infected foot-and-mouth disease, they may, if they think fit, at any t after the expiration of fourteen days from the date of the cess therein of that disease, or of such longer period, not exceed twenty-eight days from that date, as the privy council from t to time by general order direct, but not sooner, declare by or that place to be free from foot-and-mouth disease.

"(2.) Where the privy council or a local authority have decl a place to be infected with foot-and-mouth disease, the p council may, if they think fit, at any time after the expiratio fourteen days from the date of the cessation therein of that dis or of such longer period, not exceeding twenty-eight days f that date, as the privy council from time to time by general o direct, but not sooner, declare by order that place to be free f foot-and-mouth disease.

"(3.) Where the privy council have delared an area to b fected with foot-and-mouth disease, they may, if they think fit, any time when there is not within that area, or within some ticular portion thereof, any place infected with foot-and-m disease, declare, by order, that area, or that portion thereof, free from foot-and-mouth disease.

Exceptional Powers for Transit, and other cases.

"27. *Privy Council to provide for Pleuro-Pneumonia and F and-Mouth Disease during Transit, and in other Cases.*] (1.) privy council shall, as soon as may be after the passing of this and thereafter from time to time, by general order make s

her or other provision as they think necessary or expedient 41 & 42 Vict.
ecting the case of animals found to be affected with pleuro- c. 74.
umonia or foot-and-mouth disease—

(i.) While exposed for sale or exhibited in a market, fair, sale-
d, place of exhibition, or other place; or

(ii.) While placed in a lair or other place before exposure for
; or

(iii.) While in transit or in course of being moved by land or
water; or

(iv.) While in a foreign animals wharf or foreign animals
rantine station; or

(v.) While being in a slaughter-house or place where animals
slaughtered or are kept with a view to slaughter; or

(vi.) While being on common or uninclosed land; or

(vii.) Generally, while being in a place not in the possession or
pation or under the control of the owner of the animals.

(2.) The privy council shall, by general orders under this
ion, from time to time make such provision as they think fit
the consequences under this act of animals being so found in
circumstances aforesaid, as well with regard to the animals as
h regard to the places where they are when so found and other
es, and with regard to animals being or having been in the same
d or stable, herd or flock, or in contact, with animals so found.

(3.) The privy council may from time to time, by special orders
ler this section relating to particular places, make such pro-
on as they think fit for the consequences aforesaid.

(4.) Every order under this section shall have full effect notwith-
nding any provision of this act requiring the declaration of a
e infected by pleuro-pneumonia or foot-and-mouth disease, or
ting to any consequence thereof, or to any matter connected
rewith, and notwithstanding any other provision whatsoever of
act.

Infected Places and Areas generally.

28. *General Provisions respecting Declaration of Infected Places
Areas.*] (1.) The privy council may, from time to time,
ke such general orders as they think fit, subject and accord-
to the provisions of this act, for prescribing the cases in which
ces and areas are to be declared to be infected with a disease
er than cattle plague, pleuro-pneumonia, or foot-and-mouth
ease, and the authority, mode, and conditions by, in, and on
ich declarations in that behalf are to be made, and the effect
l consequences thereof, and the duration and discontinuance
reof, and other matters connected therewith.

(2.) Every place or area so declared infected, as well as a place
area declared infected with cattle plague, pleuro-pneumonia,
foot-and-mouth disease, shall be an infected place or area within
act.

41 & 42 Vict. c. 74.

"(3.) Notwithstanding anything in this act, where the p council, on inquiry, and after communication with the local thority, but without prejudice to the powers of the privy cou as regards cattle plague, are satisfied that a declaration of a p being an infected place has been made in error respecting existence or past existence of disease or respecting the limits place, or respecting any other matter of fact whereon the declara proceeded, the privy council may, by order, cancel the declara as regards the infected place, or as regards any part thereof, as t think fit.

"(4.) Where, in accordance with the provisions of this a place or area or a portion of an area is declared free from a dis or a declaration of a place being an infected place is cancelled regards the place or as regards any part thereof, then, as from time specified in that behalf by the privy council or a local auth as the case may be, the place or area, or that portion of the a or that part of the place, shall cease to be, or to be in, an infe place or area.

"(5.) An order of the privy council or of a local authority claring a place or area to be an infected place or area, or a pla area, or a portion of an area, to be free from disease, or cancelli a declaration, shall be conclusive evidence to all intents of existence or past existence or cessation of the disease, or o error, and of any other matter whereon the order proceeds.

"*Slaughter in Disease, and Compensation, generally.*

"**29.** *Power for Privy Council to provide for Slaughter in of Diseases.*] The privy council may from time to time make such ord as they think fit, subject and according to the provisions of this a for directing or authorizing, in case of the existence of any dis other than cattle plague or pleuro-pneumonia, slaughter of ani by local authorities, either generally or in particular instances, in all or any of such cases payment of compensation for the sa by local authorities out of the local rate.

"**30.** *General provisions relative to Slaughter and Compensa* (1.) The privy council may, notwithstanding anything in t act, reserve for observation and treatment an animal liable be slaughtered under this act by order of the privy council or local authority, but subject to payment of compensation by t privy council or the local authority, as the case may be, as in of actual slaughter.

"(2.) Where an animal is slaughtered under this act by ord the privy council or of a local authority, the carcase of the ani shall belong to the privy council or to the local authority, as t case may be, and shall be buried, or sold, or otherwise disposed by them, or as they direct, as the condition of the animal or car and other circumstances may require or admit; and any r

ived by a local authority on any such sale shall be carried by 41 & 42 Vict. c. 74.
to the credit of the local rate.

(3.) If, in any case, the sum received by the privy council or a authority on sale of a carcase under this section exceeds the mt paid for compensation to the owner of the animal slaugh-, the privy council or local authority, as the case may be, shall that excess to the owner, after deduction of reasonable expenses.

(4.) Where an animal is slaughtered under this act by order of rivy council or of a local authority, the privy council or local ority, as the case may be, may use for the burial of the carcase ground in the possession or occupation of the owner of the al and suitable in that behalf, or any common or uninclosed , but, as regards the use by a local authority of common or closed land, not without the approval of the privy council.

(5.) If the owner of an animal slaughtered under this act by of the privy council or of a local authority has an insurance e animal, the amount of the compensation awarded to him r this act may be deducted by the insurers from the amount of oney payable under the insurance before they make any pay- in respect thereof.

(6.) A local authority shall keep, as the privy council from time ne by general order direct, a record relative to slaughter, which d shall be admitted in evidence.

(7.) Notwithstanding anything in this act, the privy council or al authority, as the case may be, may, if they think fit, with- either wholly or partially, compensation or other payment in ct of an animal slaughtered under this act by their respective , where the owner or the person having charge thereof has, eir respective judgment, been guilty, in relation to the animal, offence against this act, or where the animal, being a foreign al, was, in their respective judgment, diseased at the time of nding.

"*Notice of Disease to Police.*

31. *Separation of Diseased Animals, and notice to Constable.*] Every person having in his possession or under his charge an al affected with disease shall, as far as practicable, keep that al separate from animals not so affected, and shall, with all ticable speed, give notice of the fact of the animal being so ted to a constable of the police establishment for the police ict or area, county, borough, town, or place wherein the animal ffected is.

(2.) The constable to whom notice is given shall forthwith give rmation thereof to such person or authority as the privy council time to time by general order direct.

(3.) The privy council from time to time may make such general rs as they think fit for prescribing and regulating the notice to

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be given to or by any person or authority in case of any parti disease, or in case of the illness of an animal, and for supplen ing or varying for those purposes any of the provisions of section.

"*Disease and Movement, generally.*

"32. *Power for Privy Council to make Orders for Preventi Checking of Disease, and other purposes.*] The privy council from time to time make such general or special orders as think fit, subject and according to the provisions of this act, the following purposes, or any of them:

"(i.) For prescribing and regulating the publication by plac handbills, or otherwise, in the immediate neighbourhood of a p or area declared infected, of the fact of such declaration.

"(ii.) For prohibiting or regulating the movement of ani and persons into, in, or out of an infected place or area.

"(iii.) For prescribing and regulating the isolation or separa of animals being in an infected place or area.

"(iv.) For prohibiting or regulating the removal of carca fodder, litter, utensils, pens, hurdles, dung, or other things i in, or out of an infected place or area.

"(v.) For prescribing and regulating the destruction, bu disposal, or treatment of carcases, fodder, litter, utensils, p hurdles, dung, or other things, being in an infected plac area, or removed thereout.

"(vi.) For prescribing and regulating the cleansing and infecting of infected places and areas, or parts thereof.

"(vii.) For prescribing and regulating the disinfecting of clothes of persons coming in contact with or employed ab diseased or suspected animals, or being in an infected pl and the use of precautions against the spreading of disease by persons.

"(viii.) For prohibiting or regulating the digging up of carc buried.

"(ix.) For prohibiting or regulating the exposure of diseased suspected animals in markets or fairs or sale-yards, or other pu or private places, where animals are commonly exposed for sa and the placing thereof in lairs or other places adjacent to or c nected with markets or fairs, or where animals are commonly pl before exposure for sale.

"(x.) For prohibiting or regulating the sending or carrying diseased or suspected animals, or of dung or other thing likely spread disease, or the causing the same to be sent or carried railways, canals, rivers, or inland navigations, or in coast vessels, or otherwise.

(xi.) For prohibiting or regulating the carrying, leading

ng of diseased or suspected animals, or the causing them to 41 & 42 Vict. c. 74.
rried, led, or driven on highways or thoroughfares, or elsewhere.

xii.) For prohibiting or regulating the placing or keeping of sed or suspected animals on commons or uninclosed lands, or lds or other places insufficiently fenced, or on the sides of ays.

xiii.) For prescribing and regulating the seizure, detention, disposal of a diseased or suspected animal exposed, carried, or otherwise dealt with in contravention of an order of il; and for prescribing and regulating the liability of the r or consignor or consignee of the animal to the expenses cted with the seizure, detention, and disposal thereof.

xiv.) For prescribing the mode of ascertainment of the value of imal slaughtered, or liable to be slaughtered, by order of the council or of a local authority.

xv.) For regulating applications for, and the mode of payment mpensation to be paid out of money provided by parliament.

xvi.) For prescribing and regulating the destruction, burial, sal, or treatment of carcases of animals slaughtered by order e privy council or of a local authority, or dying while diseased spected.

xvii.) For prohibiting or regulating movement of animals, he removal of carcases, fodder, litter, dung, and other things, or prescribing and regulating the isolation of animals newly hased.

xviii.) For prescribing and regulating the issuing and proion of licences respecting movement and removal of animals hings.

(xix.) For prohibiting or regulating the holding of markets, exhibitions, and sales of animals.

(xx.) For prescribing and regulating the cleansing and disting of places used for the holding of markets, fairs, exhibi, and sales of animals, or for lairage of animals, and yards, s, stables, and other places used for animals.

(xxi.) For prescribing and regulating the cleansing and disting of vessels, vehicles, and pens and other places, used for arrying of animals for hire or purposes connected therewith.

(xxii.) For prescribing modes of cleansing and disinfecting.

(xxiii.) For insuring for animals carried by sea a proper supply od and water and proper ventilation during the passage and on ing.

(xxiv.) For protecting them from unnecessary suffering during passage and on landing.

(xxv.) For protecting animals from unnecessary suffering ing inland transit.

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"(xxvi.) For securing a proper supply of water and fo animals during any detention thereof.

"(xxvii.) For prescribing and regulating the marking of ani

"(xxviii.) For prohibiting, absolutely or conditionally, th for the carrying of animals or for any purpose connected there of a vessel, vehicle, or pen or other place in respect whereof, the use whereof, a penalty has been recovered from any pers an offence against this act.

"(xxix.) For prescribing and regulating the payment an covery of expenses in respect of animals.

"(xxx.) For prescribing and regulating the form and mo service or delivery of notices and other instruments.

"(xxxi.) For authorising a local authority to make regula for purposes of this act or of an order of council, subje such conditions, if any, as the privy council, for the purpo securing uniformity and the due execution of the provisions o act, think fit to prescribe.

"(xxxii.) For applying all or any of the provisions of this a horses, asses, and mules, and to glanders and farcy, and o diseases thereof.

"(xxxiii.) For extending, for all or any of the purposes of act, the definition of disease in this act, so that the same shall those purposes comprise any disease of animals in addition t diseases mentioned in this act.

"(xxxiv.) Generally, for the better execution of this act, o the purpose of in any manner preventing the spreading of dise

"33. *Provision of Water and Food at Railway Stations.*] Every railway company shall make a provision, to the satisfac of the privy council, of water and food, or either of them, at s stations as the privy council from time to time, by general specific description, direct, for animals carried, or about to be having been carried, on the railway of the company.

"(2.) The water and food so provided, or either of them, shall supplied to any such animal by the company carrying it, on request of the consignor or of any person in charge thereof.

"(3.) As regards water, if, in the case of any animal, such request is not made, so that the animal remains without a sup of water for twenty-four consecutive hours, the consignor and person in charge of the animal shall each be guilty of an offe against this act; and it shall lie on the person charged to pro such a request and the time within which the animal had a supp of water.

"(4.) But the privy council may from time to time, if th think fit, by order prescribe any other period, not less than twel hours, instead of the period of twenty-four hours aforesaid, general or in respect of any particular kind of animals.

(5.) The company supplying water or food under this section make in respect thereof such reasonable charges (if any) as privy council by order approve, in addition to such charges as are for the time being authorised to make in respect of the riage of animals. The amount of those additional charges rued due in respect of any animal shall be a debt from the con- nor and from the consignee thereof to the company, and shall recoverable by the company from either of them, with costs, by ceedings in any court of competent jurisdiction. The company ll have a lien for the amount thereof on the animal in respect ereof the same accrued due, and on any other animal at any e consigned by or to the same consignor or consignee to be ried by the company. 41 & 42 Vict. c. 74.

"*Dairies, Cow-sheds, and Milk-shops.*

'34. *Power for Privy Council to make Orders relative to Dairies, -sheds, and Milk-shops.*] The Privy Council may from time time make such general or special orders as they think fit, bject and according to the provisions of this act, for the following rposes, or any of them:

"(i.) For the registration with the local authority of all persons rrying on the trade of cowkeepers, dairymen, or purveyors of milk.

"(ii.) For the inspection of cattle in dairies, and for prescribing d regulating the lighting, ventilation, cleansing, drainage, and ter supply of dairies and cow-sheds in the occupation of persons llowing the trade of cowkeepers or dairymen.

"(iii.) For securing the cleanliness of milk-stores, milk-shops, d of milk-vessels used for containing milk for sale by such persons.

"(iv.) For prescribing precautions to be taken for protecting ilk against infection or contamination.

"(v.) For authorizing a local authority to make regulations for e purposes aforesaid, or any of them, subject to such conditions, any, as the privy council prescribe.

Foreign Animals.

"35. *Prohibition of Importation; Slaughter or Quarantine.*]— .) The privy council may from time to time make such general or ecial orders as they think fit for prohibiting the landing of nimals, or of any specified kind thereof, or of carcases, fodder, tter, dung, or other thing, brought from any specified foreign untry, or any specified part thereof.

"(2.) Any such order may be made at any time after the passing f this act, but shall not take effect before the first day of January ne thousand eight hundred and seventy-nine; and until that day art III., relating to foreign animals, of the Contagious Diseases Animals) Act, 1869, and all other provisions relating to foreign nimals of that act and of any other act repealed by this act, shall,

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notwithstanding that repeal, or any other thing in this act, l
force as if this act had not been passed.

"(3.) On and after the first day of January one thousand
hundred and seventy-nine, the provisions set forth in the
schedule shall apply to foreign animals, the landing whereof i
for the time being prohibited by order of council made unde
section.

"**36.** *Regulation of Ports.*] (1.) The privy council may
time to time make such general or special orders as they thi
subject and according to the provisions of this act, for the
lowing purposes, or any of them:

"(i.) For prescribing the ports at which alone foreign ani
may be landed.

"(ii.) For defining the limits of ports for purposes of this a

"(iii.) For defining parts of ports.

"(iv.) For prohibiting or regulating the movement of ani
into, in, or out of a defined part of a port.

"(v.) For prescribing and regulating the inspection and ex
nation, and the mode, time, and conditions of slaughter, of an
in a defined part of a port.

"(vi.) For prescribing and regulating the disposal of animals
being foreign animals, and being in a defined part of a port.

"(vii.) For regulating the removal of carcases, fodder,
utensils, dung, or other things into, in, or out of a defined p
a port, and the disposal thereof, when likely to introduce or sp
disease.

"(viii.) For prescribing and regulating the cleansing and di
fecting of a defined part of a port or of parts thereof.

"(ix.) For prescribing and regulating the disinfecting o
struction of things being in a defined part of a port or rem
thereout.

"(x.) For regulating the movement of persons into, in, or o
a defined part of a port.

"(xi.) For prescribing and regulating the disinfecting of
clothes of persons employed or being in a defined part of a port
the use of precautions against the introduction or spreading
them of disease.

"(xii.) For prescribing and regulating the seizure and dete
of any foreign animal, carcase, fodder, litter, dung, or other th
whereby disease may be introduced or spread.

"(xiii.) Generally, for the better execution of this act in rel
to foreign animals, carcases, fodder, litter, dung, or other thing
for the purpose of in any manner preventing the introduc
spreading thereby of disease.

"(2.) Notwithstanding anything in this act, a defined par
port, or any part thereof, shall not be declared to be an in

e, or be made part of an infected place, otherwise than by the y council. 41 & 42 Vict. c. 74.

(3.) Where the district or part of a district of a local authority ribed in the second schedule is or comprises, or is comprised in, rt or part of a port, the privy council may from time to time, ey think fit, in relation to that port or part of a port, by order, e any body, other than the body constituted the local authority he second schedule, the local authority for the purposes of the isions of this act relating to foreign animals, and, in connexion the local authority so made, prescribe the local rate, if any, the clerk of the local authority.

Powers and Duties of Local Authorities.

37. *Local Authorities to be treated as Incorporated.*] A local ority, not being a body corporate, may sue and be sued, and and hold land, and otherwise act and be dealt with for all oses of this act, by the name or title of the local authority r this act for their district, as if they were incorporated.

38. *Committees of Local Authorities.*] The provisions in the schedule shall have effect with respect to committees of local orities.

39. *Provision of Places for Landing of Foreign Animals.*] (1.) A authority may provide, erect, and fit up wharves, stations, sheds, and other places for the landing, reception, keeping, slaughter, or disposal of foreign animals, carcases, fodder, , dung, and other things.

(2.) There shall be incorporated with this act the Markets and Clauses Act, 1847, except sections six to nine and fifty-one to thereof, all inclusive.

(3.) A wharf or other place provided by a local authority under section shall be a market within that act; and this act shall be special act; and the prescribed limits shall be the limits of acquired or appropriated for purposes of this section; and ws shall be approved by the privy council, which approval be sufficient without any other approval or allowance, notice plication for approval being given, and proposed byelaws being ished before application, as required by the Markets and Fairs ses Act, 1847.

(4.) A local authority may charge for the use of a wharf or place provided by them under this section such sums as bye- from time to time appoint, and the same shall be deemed tolls orized by the special act.

(5.) All sums so received by the local authority shall be carried separate account, and shall be applied in payment of interest oney borrowed by them for purposes of Part III., relating to gn animals, of the Contagious Diseases (Animals) Act, 1869,

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or of this section, and in repayment of the principal thereof, subject thereto, towards discharge of their expenses under this

"(6.) The local authority shall make such periodical retur the privy council of their expenditure and receipts in respect o wharf or other place as the privy council from time to time req

"(7.) The privy council, if satisfied on inquiry that the taken by the local authority for the wharf or other place properly be reduced, regard being had to the expenditure receipts of the local authority in respect thereof, and to any m secured on the tolls, and to the other circumstances of the may require the local authority to submit to the privy council their approval, a new schedule of tolls, and on failure of the authority to do so, to the satisfaction of the privy council, may order, prescribe such tolls as they think fit, in lieu of those be approved by them.

"(8.) The provisions of this section shall apply to a whar other place provided by a local authority under the Contag Diseases (Animals) Act, 1869.

"**40.** *Power for Local Authority to acquire Land.*] (1.) A l authority may purchase, or may by agreement take on lease o a rent, land for wharves or other places, or for use for buri carcases in cases where there is not any ground suitable in behalf in the possession or occupation of the owner of the an or any common or uninclosed land suitable, and approved by privy council, in that behalf, or for any other purpose of this a

"(2.) They may (subject to any agreement) dispose of land acquired, but not required for this act, carrying the money duced thereby to the credit of the local rate.

"(3.) The regulations contained in section one hundred seventy-six of the Public Health Act, 1875, shall be observed respect to the purchase of land by a local authority for purpose this act, as if the local authority were a local board, and purp of this act were purposes of that act; save that the requisite adv tisements and notices may be published and served in any consecutive months, and that the local rate be substituted f rates therein mentioned.

"(4.) The powers conferred by this section may be exercised a local authority with respect to land within or without th district.

"**41.** *Duties of Local Authorities, and enforcement thereof.*] Every local authority shall execute and enforce this and ev order of council, as far as the same are to be executed or enf by local authorities.

"(2.) Where a local authority fail to execute or enforce any the provisions of this act, or of an order of council, the p council may by order empower a person therein named to exe

enforce those provisions, or to procure the execution and rcement thereof. 41 & 42 Vict. c. 74.

(3.) The expenses incurred thereby by or on behalf of the r council, including compensation for animals slaughtered, l be expenses of the local authority, and the amount thereof be paid to the privy council, on demand, by the treasurer or r proper officer of the local authority; and in default of pay- t the same shall be recoverable from the local authority, with , by a person appointed by the privy council to sue in that lf.

(4.) For the purposes of this section an order of the privy ncil shall be conclusive in respect of any default, amount of nses, or other matter therein stated or appearing.

(5.) The provisions of this section shall be without prejudice e right or power of the privy council, or any other authority ny person, to take any other proceedings for requiring a local ority to execute or enforce any of the provisions of this act, t an order of council.

42. *Inspectors and other Officers of Local Authority.*] (1.) ry local authority shall from time to time appoint so many ectors and other officers as they think necessary for the execu- and enforcement of this act, and shall assign to those in- tors and officers such duties, and salaries or allowances, and r delegate to any of them such authorities and discretion, as to local authority seem fit, and may at any time revoke any ap- ntment so made.

(2.) Every local authority shall keep appointed at all times at t one veterinary inspector, and shall appoint and at all times p appointed so many other veterinary inspectors as the privy ncil, having regard to the extent and circumstances of the dis- t of the local authority, from time to time direct.

(3.) The privy council, on being satisfied on inquiry that an ector of a local authority is incompetent, or has been guilty of conduct or neglect, may, if they think fit, direct his removal, thereupon he shall cease to be an inspector.

43. *Reports to Privy Council.*] Every local authority and ir inspectors and officers shall send and give to the privy council h notices, reports, returns, and information as the privy council m time to time require.

44. *Orders and Regulations of Local Authorities.*] (1.) An er or regulation of a local authority may be proved—

(i.) By the production of a newspaper purporting to contain order or regulation as an advertisement; or

(ii.) By the production of a copy of the order or regulation porting to be certified by the clerk of the local authority as a e copy.

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"(2.) An order or regulation so proved shall be taken to been duly made, unless and until the contrary is proved.

"(3.) An order or regulation of a local authority authoris this act or by order of council shall alone be deemed for pur of this act an order or regulation of a local authority.

"45. *Powers of Local Authorities to be for their District.*] provisions of this act conferring powers on, or otherwise rel to, a local authority, or their inspectors or officers, shall, u otherwise expressed, be read as having reference to the distr the local authority; and powers thereby conferred shall, unl is otherwise expressed, be exerciseable and shall operate withi in relation to that district only.

Expenses of Local Authorities.

"46. *Expenses out of Local Rate.*] The expenses of a authority shall be defrayed out of the local rate; and such su may be necessary to defray those expenses shall from time to be levied with and as part of the local rate.

"47. *Relief of Boroughs from Contribution to County Expe* (1.) The local authority of a borough assessed to the county of a county shall be paid by the local authority of the county proportionate amount paid by the several parishes and par parishes in the borough towards the expenses under this act local authority of the county.

"(2.) The local authority of a borough having a separate of quarter sessions shall be exempt from contributing towar expenses under this act of the local authority of the co within which the borough is situate; and the treasurer of county shall, out of the account required by the Municipal poration Act, 1835, to be kept by him of money expended the county rate for other purposes than those in that act mentio exclude the expenses under this act of the local authority of county; and the amount to be paid to the treasurer of the co by the borough shall be varied accordingly.

"48. *Outstanding Rates.*] The existence of an order or pro for the making or collection under any former act of a rate maining uncollected wholly or in part at the commencem this act shall not affect the validity of any rate thereafter mad

Borrowing by Local Authorities.

"49. *Power for Local Authority to borrow.*] (1.) Where amount or proportion of the local rate levied or required for act exceeds or would exceed in any financial year sixpence pound, a local authority may borrow at interest on the cre the local rate any money necessary under this act, and may a

: repayment thereof, with interest, by mortgaging the local rate : any term not exceeding seven years. 41 & 42 Vict. c. 74.

"(2.) Where the amount or proportion aforesaid exceeds or uld exceed in any financial year ninepence in the pound, the al government board may, if they think fit, on application of) local authority, extend the term to any period not exceeding irteen years.

"(3.) A local authority, borrowing for the purposes of this tion, shall borrow subject to the provisions of the Local Loans t, 1875; and every loan raised under this section shall be dis- ırged in manner prescribed by section thirteen of that act, for ich purpose a sinking fund is hereby prescribed, if in any case ı local government board so direct, but not otherwise.

"(4.) The public works loan commissioners may, on the recom- ndation of the local government board, advance money to a al authority in manner provided by the Public Works Loans t, 1875, and any enactment amending or substituted for that , the same to be repaid, with interest, within the term aforesaid, l the local authority may so borrow accordingly.

"(5.) A local authority, borrowing for purposes of the provisions this act relating to foreign animals, may, if they think fit, give security, either with the local rate, if any, or separately there- m, the charges which they are authorized to make for the use ı wharf or other place provided by them under this act, and any ıtes, revenues, or funds belonging to them and not otherwise ropriated by law; and in that case the limitations in this tion respecting the amount or proportion of rate and term of rs shall not operate.

Police.

"50. *Duties and Authorities of Constables.*] (1.) The police of h police district or area, county, borough, town, and place shall cute and enforce this act and every order of council.

2.) Where a person is seen or found committing, or is reasonably pected of being engaged in committing an offence against this , a constable may, without warrant, stop and detain him; and, is name and address are not known to the constable, and he s to give them to the satisfaction of the constable, the constable y, without warrant, apprehend him; and the constable may, ether so stopping or detaining or apprehending the person or , stop, detain, and examine an animal, vehicle, boat, or thing which the offence or suspected offence relates, and require the ıe to be forthwith taken back to or into any place or district erefrom or whereout it was unlawfully removed, and execute l enforce that requisition.

"(3.) If any person obstructs or impedes a constable or other

41 & 42 Vict. c. 74.

officer in the execution of this act or of an order of council or regulation of a local authority, or assists in any such obstruc or impeding, the constable or officer may without warrant apreh the offender.

"(4.) A person apprehended under this section shall be t with all practicable speed before a justice, and shall not be tained without a warrant longer than is necessary for purpose; and all enactments relating to the release of pers on recognizances taken by an officer of police or a const shall apply in the case of a person apprehended under section.

"(5.) The foregoing provisions of this section respecting constable extend and apply to any person called by a const to his assistance.

"(6.) A constable shall forthwith make a report in writing his superior officer of every case in which he stops any pers animal, vehicle, boat, or thing under this section, and of proceedings consequent thereon.

"(7.) Nothing in this section shall take away or abridge a power or authority that a constable would have had if this sect had not been enacted.

General.

"51. *General Powers of Inspectors.*] (1.) An inspector shall ha for purposes of this act, all powers which a constable has un this act or otherwise in the place where the inspector is acting.

"(2.) An inspector may at any time enter any land, or da or cow-shed to which this act applies, or milk-stores or mi shop, or other building or place wherein he has reasona grounds for supposing—

"(*a.*) That disease exists or has within fifty-six days existed:

"(*b.*) That the carcase of a diseased or suspected animal is has been kept, or has been buried, destroyed, or otherwise di posed of; or

"(*c.*) That there is to be found any pen, place, vehicle thing in respect whereof any person has on any occasion fail to comply with the provisions of this act, or of an order council, or of a regulation of a local authority; or

"(*d.*) That this act or an order of council or a regulatio a local authority has not been or is not being complied with.

"(3.) An inspector may at any time enter any pen, vehic vessel, or boat in which or in respect whereof he has reasona grounds for supposing that this act or an order of council or regulation of a local authority has not been or is not being com- plied with.

'(4.) An inspector entering, as in this section authorised, ll, if required by the owner, or occupier, or person in charge the land, building, place, pen, vehicle, vessel or boat, state in ting his reasons for entering. 41 & 42 Vict. c. 74.

'(5.) A certificate of a veterinary inspector to the effect that an mal is or was affected with a disease specified in the certificate ll for the purposes of this act be conclusive evidence in all rts of justice of the matter certified.

'(6.) An inspector of the privy council shall have all the powers an inspector throughout England or that part thereof for which is appointed.

'52. *Power for Detention of Vessels.*] (1.) Where an inspector the privy council is satisfied that this act or an order of council a regulation of a local authority has not been or is not being nplied with on board a vessel in a port, then, on the representa- n in writing to that effect of the inspector, stating particulars of n-compliance, the vessel may be detained until the privy council erwise direct.

'(2.) The officer detaining the vessel shall forthwith deliver to master or person in charge of the vessel a copy of the repre- ntation.

"(3.) Section thirty-four of the Merchant Shipping Act, 1876, ll apply in the case of such detention, as if it were effected under act in that section mentioned.

"53. *Expenses of Burial of Carcases washed Ashore.*] Where a rcase washed ashore is buried or destroyed under the direction of receiver of wreck, with authority from the Board of Trade, the penses thereof shall be expenses of the local authority, and shall paid by them to the receiver on demand, and in default of pay- ent shall be recoverable with costs from them by the receiver.

"54. *Power to exclude Strangers by Notice.*] A person owning having charge of animals in a place or area declared infected th any disease may affix, at or near the entrance to a building or closure in which the animals are, a notice forbidding persons to ter therein without the permission mentioned in the notice; and ereupon it shall not be lawful for any person, not having by law right of entry or way into, on, or over that building or inclosure, enter or go into, on, or over the same without that permission.

"55. *Provisions for Protection of Local Authority and Persons ting under Act.*] (1.) An action, prosecution, or proceeding ainst a local authority, or an inspector or officer of the privy uncil or of a local authority, or any person, for any act done in ursuance or execution or intended execution of this act, or of an der of council, or regulation of a local authority, or in respect of y alleged neglect or default in the execution of this act, or of ch an order or regulation, shall not lie or be instituted unless it

41 & 42 Vict. c. 74.

is commenced within four months next after the act, neglect default complained of, or, in case of a continuance of injury damage, within four months next after the ceasing thereof.

"(2.) In any such action tender of amends before the action commenced may, in lieu of or in addition to any other plea, pleaded. If the action was commenced after such tender, or proceeded with after payment into court of any money in satisf tion of the plaintiff's claim, and the plaintiff does not recover m than the sum tendered or paid, he shall not recover any co incurred after such tender or payment, and the defendants shall entitled to costs, to be taxed as between solicitor and client, as in the time of such tender or payment; but this provision shall n affect costs on any injunction in the action.

"(3.) Subject and without prejudice to any other powers, a loc authority, where the defendant in any such action, prosecution, other proceeding is their officer, servant, or agent, may, if th think fit, except so far as the court before whom such action, pr secution, or other proceeding is heard and determined otherwi directs, pay as part of their expenses in the execution of this a all or any part of any sums payable by such defendant in or i consequence of such action, prosecution, or proceeding, whether i respect of costs, charges, expenses, damages, fine, or otherwise.

"56. *No Stamp Duty or Fees.*] No stamp duty shall be payab on, and no fee or other charge shall be demanded or made for, an appointment, certificate, declaration, licence, or thing under th act, or an order of council, or a regulation of a local authority, o for any inspection or other act precedent to the granting, making or doing of a certificate, declaration, licence, or other thing.

"57. *Evidence and Form and Service of Instruments.*] (1.) In any proceeding under this act, no proof shall be required of th appointment or handwriting of an inspector or other officer of th privy council, or of the clerk or an inspector or other officer of a local authority.

"(2.) Every notice or other instrument under this act or under an order of council or regulation of a local authority may be in writing or print, or partly in writing and partly in print.

"(3.) Any such notice or other instrument may be served on the person to be affected thereby, either by the delivery thereof to him personally, or by the leaving thereof for him at his last known place of abode or business, or by the sending thereof through the post in a registered letter addressed to him there.

"(4.) A notice or other instrument so sent by post shall be deemed to have been served at the time when the letter containing it would be delivered in the ordinary course.

"(5.) In order to prove service by letter of a notice or other instrument, it shall be sufficient to prove that the letter was properly

dressed, registered, and posted, and contained the notice or other strument to be served. 41 & 42 Vict. c. 74.

"(6.) A notice or other instrument to be served on the occupier any building, land, or place may, except when sent by post, be dressed to him by the designation of the occupier of that building, nd, or place, without naming or further describing him; and here it is to be served on the several occupiers of several buildings, nds, or places, may, except when sent by post, be addressed to em collectively by the designation of the occupiers of those several uildings, lands, or places, without further naming or describing em, but separate copies thereof being served on them severally.

"58. *Provisions respecting Orders of Council.*] (1.) The privy ouncil may from time to time alter or revoke any order of council.

"(2.) Every order of council shall have effect as if it had been nacted by this act.

"(3.) Every order of council shall be published in the London azette; save that where an order affects only a particular local uthority, person, port, town, district, place, area, vessel, or thing, r is a licence or revocation of a licence, or in the nature thereof, r is an appointment or removal of an inspector or other officer, hen the insertion in the London Gazette of a notice of the making f the order shall suffice; and a copy of the London Gazette containing such a notice shall be evidence of the order, as if the notice vere the order.

"(4.) Every order of council, licence, or other instrument issued y the privy council shall be published by and at the expense of very local authority to whom it is sent by the privy council for ublication, in such manner as the privy council direct, and, subject to and in the absence of any direction, by advertisement in a newspaper circulating in the district of the local authority.

"(5.) The validity or effect of an order of council, licence, or other instrument issued by the privy council shall not be affected by want of or defect or irregularity in any publication thereof.

"(6.) Any act of the privy council under this act, done otherwise than by order of council, shall be sufficiently done and signified by an instrument signed by the clerk of the council; and every act done and signified by an instrument purporting to be so signed shall be deemed to have been duly done by the privy council; and every such instrument shall be received in evidence in all courts and proceedings without proof of the authority or signature of the clerk of the council or other proof.

"59. *Yearly return to be laid before Houses of Parliament.*] A return shall be made and laid before both houses of parliament not later than the thirty-first day of March in each year, setting forth every order of council made since the date of the last return and every previous order of council required to be published in the

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London Gazette and in force; and stating the proceedings i expenditure under this act of the privy council, and, as far reasonably may be, of local authorities, in the year ending thirty-first day of December then last; and showing the numbe foreign animals landed and found diseased in that year, specifyi separately the different kinds of disease, and the ports of expor tion and landing, and the mode of disposal of the animals; a containing such other information respecting the operation of t act as the privy council think fit.

Offences and Proceedings.

"**60.** *Fines for Offences.*] If any person is guilty of an offen against this act, he shall for every such offence be liable—

"(i.) To a penalty not exceeding twenty pounds; or

"(ii.) If the offence is committed with respect to more than fo animals, to a penalty not exceeding five pounds for each animal;

"(iii.) Where the offence is committed in relation to carcas fodder, litter, dung, or other thing (exclusive of animals), to penalty not exceeding ten pounds in respect of every half ton weight thereof after one half ton, in addition to the first penalty not exceeding twenty pounds.

"**61.** *General Offences.*] (1.) If any person, without lawi authority or excuse, proof whereof shall lie on him, does any of th following things, he shall be guilty of an offence against this act:

"(i.) If he does anything in contravention of this act, or of order of council, or of a regulation of a local authority:

"(ii.) If, where required by this act to keep an animal separa as far as practicable, or to give notice of disease with all practicabl speed, he fails to do so:

"(iii.) If he fails to give, produce, observe, or do any notice licence, rule, or thing which by this act, or by an order of counci or by a regulation of a local authority, he is required to give, produce, observe, or do:

"(iv.) If he does anything which by this act or an order of council is made or declared to be not lawful:

"(v.) If he does or omits anything, the doing or omission where is declared by this act or by an order of council to be an offence by him against this act:

"(vi.) If he refuses to an inspector or other officer, acting in execution of this act, or of an order of council, or of a regulation of a local authority, admission to any land, building, place, vessel pen, vehicle, or boat which the inspector or officer is entitled to enter or examine, or obstructs or impedes him in so entering or examining, or otherwise in any respect obstructs or impedes an inspector or constable or other officer in the execution of his duty, or assists in any such obstructing or impeding:

(vii.) If he throws or places, or causes or suffers to be thrown laced, into or in any river, stream, canal, navigation, or other r, or into or in the sea within three miles of the shore, the ase of an animal which has died of disease, or been slaughtered iseased or suspected: 41 & 42 Vict. c. 74.

(2.) And on a further conviction within a period of twelve ths for a second or subsequent offence against the same sub-ion of this section, he shall be liable, in the discretion of the t of summary jurisdiction before which he is convicted, to be risoned for any term not exceeding one month, with or without d labour, in lieu of the pecuniary penalty to which he is liable ler this act.

62. *Imprisonment instead of Fine for use of Expired Licences, ying up of Carcases, and other specified Offences.*] (1.) If any son does any of the following things, he shall be guilty of an nce against this act:

"(i.) If, with intent to unlawfully evade this act, or an order of ncil, or a regulation of a local authority, he does anything for ich a licence is requisite under this act, or an order of council, a regulation of a local authority, without having obtained a nce:

"(ii.) If, where such a licence is requisite, having obtained a ence, he, with the like intent, does the thing licensed after the ence has expired:

"(iii.) If he uses or offers or attempts to use as such a licence an trument not being a complete licence, or an instrument untruly rporting or appearing to be a licence, unless he shows to the isfaction of the court of summary jurisdiction before which he charged that he did not know of that incompleteness or untruth, d that he could not with reasonable diligence have obtained owledge thereof:

"(iv.) If, with intent to unlawfully evade this act, or an order council, or a regulation of a local authority, he alters, or falsely akes, or ante-dates, or counterfeits, or offers or utters, knowing e same to be altered, or falsely made, or ante-dated, or counter-ited, a licence, declaration, certificate, or instrument made or sued, or purporting to be made or issued, under or for any pur-se of this act, or an order of council, or a regulation of a local thority:

"(v.) If, for the purpose of obtaining such a licence, certificate, instrument, he makes a declaration or statement false in any aterial particular, unless he shows to the satisfaction of the court summary jurisdiction before which he is charged that he did not now of that falsity, and that he could not with reasonable diligence ave obtained knowledge thereof:

"(vi.) If he obtains or endeavours to obtain such a licence,

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certificate, or instrument by means of a false pretence, unle shows to the satisfaction of the court of summary jurisdi before which he is charged that he did not know of that fal and that he could not with reasonable diligence have obta knowledge thereof:

"(vii.) If he grants or issues such a licence, certificate, or ins ment, being false in any date or other material particular, u he shows to the satisfaction of the court of summary jurisdi before which he is charged that he did not know of that falsity, that he could not with reasonable diligence have obtained kn ledge thereof, or grants or issues such a licence, certificat instrument having, and knowing that he has, no lawful autho to grant or issue the same:

"(viii.) If, with intent to unlawfully evade or defeat this act an order of council, or a regulation of a local authority, he gr or issues an instrument being in form a licence, certificate instrument made or issued under this act, or an order of cou or a regulation of a local authority, for permitting or regula the movement of a particular animal, or the doing of any o particular thing, but being issued in blank, that is to say, being before the issue thereof so filled up as to specify any p ticular animal or thing:

"(ix.) If he uses or offers or attempts to use for any purpose this act, or of an order of council, or of a regulation of a l authority, an instrument so issued in blank, unless he shows to satisfaction of the court of summary jurisdiction before which h charged that he did not know of it having been so issued in bla and that he could not with reasonable diligence have obtai knowledge thereof:

"(x.) If he by means of any fraud or false pretence obtains attempts to obtain, compensation from the privy council or a lo authority in respect of an animal slaughtered, or aids or abets a person in any such fraud or false pretence:

"(xi.) If, without lawful authority or excuse, proof where shall lie on him, he digs up, or causes to be dug up, a carc buried under the direction of the privy council or of a local auth rity or of a receiver of wreck:

"(xii.) If, where an order of council has prohibited, absolutely conditionally, the use for the carrying of animals, or for any pur pose connected therewith, of a vessel, vehicle, or pen, or other pl he, without lawful authority or excuse, proof whereof shall li him, does anything so probibited.

"(2.) And in every case in this section specified he shall be liable, on conviction, in the discretion of the court of summary jurisdic before which he is convicted, to be imprisoned for any term not ex-

ng two months, with or without hard labour, in lieu of the niary penalty to which he is liable under this act. 41 & 42 Vict. c. 74.

63. *Proceedings in Court of Summary Jurisdiction.*] Proceed- and penalties for offences against this act may be taken and vered, and expenses and other money by this act or an order uncil made recoverable summarily may be recovered with costs, summary orders under this act or an order of council may be e with costs, by or before a court of summary jurisdiction, r and according to the act of the session of the eleventh and fth years of her Majesty's reign (chapter forty-three), 'to itate the performance of the duties of justices of the peace out essions within England and Wales with respect to summary rictions and orders,' and any act amending the same; but ing in this section shall apply to proceedings under the Customs t.

64. *Appeal.*] (1.) If any person thinks himself aggrieved by dismissal of a complaint by, or by any determination or adju- tion of, a court of summary jurisdiction under this act, he may eal therefrom.

(2.) The appeal shall be made to the next practicable court of eral or quarter sessions for the county or place in which the se of appeal arises, holden not less than twenty-one days after decision appealed from.

'(3.) The appellant shall, within ten days after the decision, give ice to the clerk of the court whose decision is appealed from of intention to appeal, and of the grounds thereof, and to the other ty.

'(4.) The appellant shall within three days after such notice er into a recognizance before a justice, with two sufficient sure-, conditioned personally to try the appeal.

'(5.) The court may adjourn the appeal, and may make such ler thereon as the court thinks fit.

6.) Nothing in this section shall affect any enactment relative to peals in cases of summary convictions or adjudications in the city London or the Metropolitan police district, or apply to proceed- s under the Customs Acts.

'65. *Proceedings under Customs Acts for Unlawful Landing or ipping.*] (1.) If any person lands or ships or attempts to land or p an animal or thing in contravention of this act or of an order council, he shall be liable, under and according to the Customs ts, to the penalties imposed on persons importing or exporting or empting to import or export goods the importation or exporta- n whereof is prohibited by or under the Customs Acts, without ejudice to any proceeding against him under this act for an ence against this act, but so that he be not punished twice for e same offence.

41 & 42 Vict. c. 74.

"(2.) The animal or thing in respect whereof the offence is mitted shall be forfeited, under and according to the Customs as goods the importation or exportation whereof is prohibited under the Customs Acts are liable to be forfeited.

"66. *General Provision as to Procedure.*] (1.) The descripti an offence against this act in the words of this act, or of the of council or regulation of a local authority under which the of arises, or in similar words, shall be sufficient in law.

"(2.) Any exception, exemption, excuse, or qualification, wh it does or not accompany the description of the offence in thi or in the order of council or regulation of a local authority u which the offence arises, may be proved by the defendant, but not be specified or negatived in the information; and, if it specified or negatived, proof in relation to the matter so spec or negatived shall not be required on the part of the informant

"(3.) A warrant of commitment under this act shall not be void by reason of any defect therein, if only there is a valid viction to sustain the warrant, and it is alleged in the warrant the person named therein has been convicted.

"(4.) Where the owner or person in charge of an anim charged with an offence against this act relative to disease or to illness of the animal, he shall be presumed to have known of existence of the disease or illness, unless and until he shows to satisfaction of the court of summary jurisdiction before which is charged that he had not knowledge thereof, and could not reasonable diligence have obtained that knowledge.

"(5.) Where a person is charged with an offence against this in not having duly cleansed or disinfected any place, vessel, vehi or thing belonging to him or under his charge, and a presumpt against him on the part of the prosecution is raised, it shall lie him to prove the due cleansing and disinfecting thereof.

"(6.) A person charged with an offence against this act may he thinks fit, tender himself to be examined on his own behalf, thereupon he may give evidence in the same manner and with like effect and consequences as any other witness.

"(7.) Every offence against this act shall be deemed to have be committed, and every cause of complaint or matter for summa proceeding under this act, or an order of council, or regulation a local authority shall be deemed to have arisen, either in place where the same actually was committed or arose, or in place where the person charged or complained of or proceed against happens to be at the time of the institution or commence ment of the charge, complaint, or proceeding.

"(8.) Notwithstanding anything in any Act relating to metropolitan police or to municipal corporations or in any oth act, such part not exceeding one half of every penalty or forfeitu

vered under this act (except in proceedings under the Customs s) as the court of summary jurisdiction before which it is re- ered thinks fit, shall be paid to the person who proceeds for the e, and the residue thereof shall be applied as if this section had been enacted." 41 & 42 Vict. c. 74.

SCHEDULES.

THE SECOND SCHEDULE.

LOCAL AUTHORITIES IN ENGLAND.

District.	Local Authority.	Local Rate.	Clerk of Local Authority.
Counties, except ithin the metro- lis.	The justices in general or quarter sessions assembled.	The county rate, or rate in the nature of a county rate.	The clerk of the peace.
-The City of Lon- on and the liberties ereof.	The Corporation of London.	The consolidated rate.	The town clerk.
—The metropolis, cept the City of ondon and the berties thereof.	The Metropolitan Board of Works.	The metropolitan consolidated rate.	The clerk of the Metropolitan Board of Works.
—Boroughs sub- ct to the Munici- l Corporation Act, 35.	The mayor, alder- men, and burgesses acting by the coun- cil.	The borough rate, with the borough fund.	The town clerk.
-Other boroughs.	The commissioners or other body main- taining the police therein.	The rate applicable by the commis- sioners or other body to the main- tenance of the police.	The clerk of the com- missioners or other body.
—The district of e local board of xford.	The local board.	The rate leviable by the local board.	The clerk of the local board.

THE THIRD SCHEDULE.

PLEURO-PNEUMONIA.

. Cattle are not to be moved into or out of a place infected with uro-pneumonia, except where, as regards movement into such a place, cattle are affected with pleuro-pneumonia, and except in such other es as the Privy Council think fit from time to time by general Order xcept.

. In the cases so excepted by Order cattle may be moved into or out an infected place on conditions prescribed by general or special Order Council, and not otherwise.

. Cattle may be moved into, in, or out of such parts of an area in- ted with pleuro-pneumenia as are not comprised in a place infected th pleuro-pneumonia, by licence of the local authority, granted on iditions prescribed by general Order of Council, and not otherwise.

. Nothing in this Schedule restricts movement of cattle in a place in- ted with pleuro-pneumonia.

41 & 42 Vict.
c. 74.

THE FOURTH SCHEDULE.

Foot-and-Mouth Disease.

1. Animals are not to be moved into or out of a place infected foot-and-mouth disease, except where, as regards movement into s place, the animals are affected with foot-and-mouth disease, and e in such other cases as the Privy Council think fit from time to tin general Order to except.

2. In the cases so excepted by Order animals may be moved i out of an infected place on conditions prescribed by general or s Order of Council, and not otherwise.

3. Animals may be moved into, in, or out of such parts of an are fected with foot-and-mouth disease as are not comprised in a infected with foot-and-mouth disease, by licence of the local auth granted on conditions prescribed by Order of Council, and not o wise.

4. Nothing in this Schedule restricts movement of animals in a infected with foot-and-mouth disease.

THE FIFTH SCHEDULE.

Foreign Animals.

I.—*Slaughter at Port of Landing.*

1. Foreign animals are to be landed only at a part of a port de for that purpose by special Order of Council, to be called a fo animals wharf.

2. They are to be landed in such manner, at such times, and subje such supervision and control as the Commissioners of Customs from to time direct.

3. They are not to be moved alive out of the wharf.

II.—*Quarantine.*

4. The foregoing provisions of this Schedule (under the head Slaughter at Port of Landing) do not apply to animals intended for hibition or for other exceptional purposes; and in lieu thereof the sequent provisions of this Schedule (under the head of Quarantine, a to those animals.

5. Those animals are to be landed only at a part of a port defined that purpose by special Order of Council, to be called a foreign ani quarantine station.

6. They are to be landed in such manner, at such times, and subje such supervision and control as the Commissioners of Customs from to time direct, and subject to such conditions in respect of the animals of the vessel from which they are landed, as the Privy Council from to time by general Order prescribe.

7. When landed they are to be placed in sheds or other receptacle the quarantine station, prepared by the local authority or the owner the quarantine station, or the consignees of animals or other persons approved by the Privy Council.

8. Any such animal is not to be moved out of the quarantine sta except on conditions prescribed by general or special Order of Coun

9. Notwithstanding anything in the foregoing provisions of t Schedule (under the head of Quarantine), the provisions of this A relating to slaughter in case of the existence of disease, and to co pensation or other payment in respect of animals so slaughtered, and the ownership of carcases of such animals, shall apply to animals a foreign animals quarantine station.

III.—*Channel Islands and Isle of Man.*

41 & 42 Viet. c. 74.

0. In relation to animals brought from the Channel Islands or the ɔ of Man, the Privy Council may from time to time, if they think fit, general or special Order or by licence, alter or add to the provisions of ı Schedule relating to slaughter or to quarantine, as the case may uire.

IV.—*Other Foreign Countries.*

1. In relation to foreign animals other than those brought from the nnel Islands and the Isle of Man, if and as long as, from time to e, the Privy Council are satisfied, with respect to any foreign country, t the laws thereof relating to the importation and exportation of mals, and to the prevention of the introduction or spreading of disease, l the general sanitary condition of animals therein, are such as to rd reasonable security against the importation therefrom of diseased mals, then, from time to time, the Privy Council, by general or special ler, shall allow animals, or any specified kind of animals, brought n that country, to be landed, without being subject, under the provi- ıs of this Schedule, to slaughter or to quarantine, and may for that pose alter or add to those provisions, as the case may require; but ry such Order shall forthwith, after the making thereof, if Parliament then sitting, and if not, then forthwith after the next meeting of liament, be laid before both Houses of Parliament.

THE SIXTH SCHEDULE.

Committees of Local Authorities.

1. Each local authority shall form and keep up a committee or com- ttees, and may appoint the number of members by whom the powers a committee may be exercised, and may at any time add to or diminish ɔ number of the members of a committee, or otherwise alter the consti- tion thereof, and fill up or provide for the filling up of vacancies rein, or revoke the appointment thereof and appoint another committee committees, and lay down rules for the guidance of a committee, who ll act accordingly.

2. Each committee may consist wholly of members of the local autho- y, or partly thereof, and partly of other persons, being rated occupiers the district of the local authority, and otherwise qualified as the local thority think fit.

3. A local authority may delegate all or any of their powers, except e power to make a rate, to a committee, with or without conditions or strictions.

4. A local authority may revoke or alter any power given by them to a mmittee.

5. A local authority may, if they think fit, appoint and designate one mmittee as their executive committee.

6. An executive committee shall have all the powers of the local thority, except the power to make a rate, and may, if they think fit, point a sub-committee or sub-committees, and delegate to them all or y of the powers of the executive committee, with or without conditions restrictions, and from time to time revoke or alter any such delegation, d appoint the number of members by whom the powers of a sub-com- ittee may be exercised, and add to or diminish the number of the embers of a sub-committee, or otherwise alter the constitution thereof, d fill up or provide for the filling up of vacancies therein, or revoke the ppointment thereof and appoint another sub-committee or other sub- mmittees, and lay down rules for the guidance of a sub-committee, ho shall act accordingly.

7. Proceedings of a committee or sub-committee shall not be invali- ated by any vacancy in the committee or sub-committee, or, in the case

41 & 42 Vict. c. 74.

of a committee appointed by the local authority for a county, by termination of the session at which they were appointed.

8. In case of the formation of two or more committees, they shal according to rules laid down for their guidance by the local authorit

9. A committee, and a sub-committee of an executive committee, elect a chairman of their meetings.

10. If no chairman is elected, or if the chairman so elected is present at the time appointed for a meeting, the members then pr shall choose a chairman for that meeting.

11. A committee or sub-committee may meet and adjourn as they t proper.

12. Every question at a meeting of a committee or sub-comm shall be determined by a majority of the votes of the members, inclu the chairman, present and voting on the question; and in case of e division, the chairman shall have a second vote.

ORDERS IN COUNCIL.

The Revocation Order of 1878.

At the Council Chamber, Whitehall, the 16th day of August, 1878.

The Lords and others of her Majesty's most honourable Privy Cou by virtue and in exercise of the powers in them vested under The C tagious Diseases (Animals) Act, 1878, and of every other power enabl them in this behalf, do order and declare, and it is hereby ordered declared, as follows:—

1. This order may be cited as the Revocation Order of 1878.

2. This order shall take effect from and immediately after the thirt day of September, 1878.

3. The orders or parts of orders of council described in part I. of schedule to this order are hereby revoked; but this revocation shall no

(*a.*) Revive any order or part of any order revoked by or other affect the past operation of any of those orders or parts of orders:

(*b.*) Affect the validity or invalidity of anything done or suffered, any appointment made, or any licence or authority granted, or right, title, obligation, or liability accrued thereunder, before this or takes effect:

(*c.*) Interfere with the institution or prosecution of any proceed in respect of any offence committed against or any penalty or forfeit incurred under any order or part of any order hereby revoked.

4. The orders and parts of orders described in part II. of the sched to this order are the only orders and parts of orders made before order that will remain in force after the commencement of this order.

C. L. Pem

SCHEDULE.

Part I.—*Orders or Parts of Orders revoked.*

No.	Date.	Subject or Short Title or Part.
	1869.	
265	10 August	Dover—Limits of port.
271	10 August	North Shields—Limits of port.
274	10 August	Granton—Limits of port.
275	10 August	Leith—Limits of port.
281	10 August	Littlehampton—Limits of port.
288	28 September	North Shields—Amendment.
293	16 December..	Hartlepool—Limits of port.

Date.	Subject or Short Title or Part.
1870.	
12 January ..	Glasgow—Limits of port.
17 June	Grimsby—Limits of port.
1 October....	Middlesbrough—Limits of port.
1871.	
28 September	Newcastle-upon-Tyne—Limits of port.
23 November	Sunderland—Limits of port.
20 December	Hull—Limits of port.
1875.	
5 June	Revocation of orders.
5 June	Part I. and Part IV. of The Animals Order of 1875.
5 June	Paragraph numbered (1) of order relating to Southampton—Limits of port.
9 August	Middlesbrough—Revocation.
9 August	Newcastle-upon-Tyne—Revocation.
9 August	Newcastle-upon-Tyne—Limits of port.
1876.	
18 January ..	Amendment of list of ports—Revocation of orders.
6 April	Bristol—Landing places—Disinfection.
11 May	Further amendment of list of ports—Revocation of order.
16 June	The Sheep-Scab (Returns) Order of 1876.
1877.	
27 January ..	Article 3 of order relating to Belgium and Germany—Importation.
31 January ..	The Metropolitan Cattle Plague Order of 1877.
2 February ..	Metropolis—Cattle plague—Markets and sales.
9 February ..	London—Part of foreign cattle market declared free.
13 February ..	The Cattle Plague Order of 1877.
20 February ..	East Riding of Yorkshire—Cattle Plague—Markets, fairs, exhibitions, and sales—Movement.
6 March	Lincolnshire—Cattle plague—Markets, fairs, exhibitions, and sales.
8 March	Cattle plague—record.
12 March	Lincolnshire—Cattle plague—Movement.
12 April	Cattle plague—Privy Council to act in city of London and metropolitan police district.
20 April	Southampton—Limits of port—Amendment.
24 April	Place at Westbourne Grove declared infected place.
27 April	Metropolis—Cattle plague—Rules for infected places.
27 April	Middlesex—Cattle plague—Movement.
27 April	Metropolis—Cattle plague—Movement and slaughter.
1 May	Place at Westbourne Grove declared infected place.
1 May	Chamberlayne's farm declared infected place.
3 May	Place at Stoke Newington declared infected place.
4 May	Further amendment of list of ports—Revocation of orders.
9 May	City of London and Metropolitan Police District—Cattle plague—Slaughter.
18 May	Place at Whitechapel declared infected place.
29 May	Lincolnshire—Cattle plague—Revocation of orders.
31 May	Middlesex—Cattle plague—Movement.
14 June	The Cattle Plague Order of 1877—Revocation.
14 June	Belgium and Germany—Importation—Revocation.
18 June	The Tonning Order of 1877.
26 June	Places in Essex, Metropolis, and Middlesex declared free.
16 July	Place at Bethnal Green declared infected place.
16 July	Metropolis—Cattle plague—Movement.
18 July	Metropolis—Cattle plague—Movement—Revocation.
18 July	Metropolis—Cattle plague—Infected area.
18 July	Metropolis—Cattle plague—Movement.
14 August	Place at Bethnal Green declared free.
14 August	Metropolis—Revocation of orders.
14 August	The Metropolis (Movement) Order of August, 1877.

No.	Date.	Subject or Short Title or Part.
	1877.	
423	14 August	The Tonning Order of 1877—Amendment.
424	5 October....	Metropolis—Movement of goats from dairy show.
425	5 October....	Belgium and Germany—Importation—Revocation.
426	21 November	Metropolis—Revocation of orders.
427	26 November	Hartlepool, Grimsby, and Sunderland—Revocation.
429	26 November	Grimsby—Limits of port.
431	4 December..	Further amendment of list of ports—Revocation order.
	1878.	
434	7 June	London—Brown's wharf—Quarantine.
435	15 June	Liverpool—Importation.
437	8 July	London—Brown's Wharf—Quarantine—Amendment.
438	8 August	London—Brown's Wharf—Quarantine—Revocation.
439	8 August	Grimsby—Limits of port—Revocation.

PART II.—*Former Orders wholly or partly in force after the commencement of this Order.*

No.	Date.	Subject or Short Title or Part.
	1869.	
283	10 August	Goole—Limits of port.
	1870.	
314	27 October....	Plymouth—Limits of port.
	1871.	
344	20 December..	London—Limits of port.
	1875.	
374	5 June	Part II. and Part III. of The Animals Order of 1876—exce regards particular countries and ports dealt with by other c specified in Part I. or Part II. of this schedule.
375	5 June	Southampton—Limits of port—except paragraph numbered (1)
377	9 August	Middlesbrough—Limits of port.
	1876.	
384	29 September	Rochester—Importation.
	1877.	
385	16 January ..	Germany—Importation.
386	18 January ..	Belgium and France—Importation.
387	27 January ..	Articles 1 and 2 of order relating to Belgium and Germany—Im tation.
390	8 February ..	The Netherlands—Importation.
428	26 November	Hartlepool—Limits of port.
430	26 November	Sunderland—Limits of port.
	1878.	
432	26 April	Bristol (Avonmouth Dock)—Importation.
433	21 May	The Schleswig-Holstein Order of 1878 (expiring 31st December, 18
436	28 June	Cardiff (Roath Basin)—Importation.
440	8 August	Grimsby—Limits of port.

THE ANIMALS ORDER OF 1878.

At the Council Chamber, Whitehall, the 16th day of August, 1878.

The lords and others of her Majesty's most honourable Privy Council, virtue and in exercise of the powers in them vested under The Con-gious Diseases (Animals) Act, 1878, and of every other power enabling em in this behalf, do order, and it is hereby ordered, as follows:—

Preliminary.

1. This order may be cited as The Animals Order of 1878.
2. This order shall take effect from and immediately after the thirtieth y of September, one thousand eight hundred and seventy-eight.
3. This order extends to Great Britain only.
4. In this order—

The act of 1878 means The Contagious Diseases (Animals) Act, 1878:

Other terms have the same meaning as in the act of 1878.

Cattle Plague

5.—(1.) The constable to whom notice of the fact of an animal being fected with cattle plague, or with disease supposed to be cattle plague, given under section thirty-one of the act of 1878, shall forthwith give formation thereof to his superior officer, who shall immediately trans-it the information by telegraph or other rapid means to the clerk of the rivy Council, Whitehall, London.

(2.) The constable shall also forthwith give information of the notice o an inspector of the local authority and to the local authority.

6. The following rules shall, pending the arrival of an inspector or ther officer of the Privy Council, have effect in relation to cattle plague, amely:—

(a.) No animal shall be moved alive out of a place infected with cattle lague.

(b.) No animal, horse, ass, or mule, and no dog shall be moved alive ut of a building or enclosed space in which cattle plague exists or has ithin ten days existed.

(c.) No carcase, and no dung of animals, horses, asses, or mules, and o litter, manure, or fodder shall be moved out of a place infected with attle plague.

7. Where by virtue of the declaration of an inspector of a local autho-ity (under section ten of the act of 1878), a cow-shed, field, or other lace has become a place infected with cattle plague, the local authority hall take all necessary and proper measures, pending the arrival of an nspector or other officer of the Privy Council, to enforce the observance f the rules with respect to cattle plague, including the placing of con-ables or other proper officers at the entrances to that cow-shed, field, r other place, and generally the local authority and all constables and olice officers shall assist the inspector or other officer of the Privy ouncil to carry into effect and enforce the rules applicable in the case, nd shall do or cause to be done all things from time to time necessary r the effectual execution of the same.

Horses.

8. Horses, asses, and mules shall be deemed to be animals, and anders and farcy to be diseases, for the purposes of the following ctions of the act of 1878—namely;

Section thirty-one (notice of disease).
Section thirty-two (orders of council).
Section fifty (powers of police).
Section fifty-one (power of entry).
Section fifty-two (detention of vessels).
Section fifty-three (carcases washed ashore).

And of all other sections of the act containing provisions relative to consequent on the provisions of those sections, including such sections provide for offences and procedure.

9. The constable to whom notice of the fact of a horse, ass, or mu being affected with glanders or farcy, or with disease supposed to glanders or farcy, is given under section thirty-one of the act of 18 shall forthwith give information thereof to an inspector of the lo authority, who shall forthwith report the same to the local authority.

10. The local authority shall publish notice by placards, handbills, otherwise of the existence of glanders or farcy in any stable, buildi or other place, and shall continue such publication during the existe of the disease and until that place has been cleansed and disinfected.

11.—(1.) Where a person having a horse, ass, or mule in his poss sion or under his charge gives notice to a constable that the horse, a or mule is affected with glanders, or any person is convicted of offence against the act of 1878 by reason of his having failed to gi such a notice, then, if at any time thereafter it appears to the lo authority, on a special report of a veterinary inspector, that the hor ass, or mule is affected with glanders, and the horse, ass, or mule alive at the end of fourteen days after the receipt by the local author of that special report, the local authority may serve on the owner of t horse, ass, or mule a notice in writing requiring him to slaughter it, to permit them to slaughter it, within a time specified in the notice.

(2.) If in any case the owner fails to comply with the requisition the notice of the local authority, he shall be deemed guilty of an off- against the act of 1878, unless he shows to the satisfaction of the court summary jurisdiction before which he is charged that the horse, ass, mule is not affected by glanders, or that the slaughter thereof is for a reason unnecessary or inexpedient.

(3.) The provisions of this article may be put in force, from time time, as often as occasion requires, in relation to the same horse, ass, mule on a further special report as aforesaid.

12. Nothing in this order applies to horses, asses or mules kept stables of military barracks or camps under the supervision of the arm veterinary medical department.

Sheep-Pox.

13.—(1.) Where it appears to an inspector of a local authority th sheep-pox exists, or has within ten days existed, in a shed, field, or oth place, he shall forthwith make and sign a declaration thereof.

(2.) He shall serve a notice, signed by him, of the declaration on t occupier of that shed, field, or other place.

(3.) Thereupon that shed, field, or other place shall become and be place infected with sheep-pox, subject to the determination and decla tion of the local authority.

(4.) The inspector shall, with all practicable speed, inform the lo authority of his declaration and notice, and shall send his declaration an a copy of his notice to the local authority.

(5.) The local authority shall forthwith on receipt of that informati inquire into the correctness of the inspector's declaration, with the assi ance and advice of a veterinary inspector, or of a person qualifi according to the act of 1878 to be such.

(6.) If the local authority are satisfied of the correctness of the in spector's declaration as regards the existence or past existence of dise they shall by order determine and declare accordingly, and prescribe th limits of the place infected with sheep-pox; and may, if they thi fit, include within those limits any lands or buildings adjoining or ne to the shed, field, or other place to which the inspector's declara relates.

(7.) The local authority may include in a place infected with sheep- pox any adjoining part of the district of another local authority, wi the previous consent in writing of that authority, but not otherwise.

(8.) If the local authority are not satisfied of the correctness of the spector's declaration as regards the existence or past existence of dis-se, they shall by order determine and declare accordingly: and there-pon, as from the time specified in that behalf in their order, the shed, ld, or other place to which the inspector's declaration relates shall ase to be a place infected with sheep-pox.

(9.) The local authority shall forthwith report to the privy council e declaration of the inspector, and the action of the local authority ereon.

14. The following rules shall have effect in relation to a place infected ith sheep-pox (namely):

(a.) No sheep shall be moved alive out of a place infected with sheep-ox.

(b.) No carcase of a sheep shall be moved out of a place infected with eep-pox, except either with a licence of an inspector of the local thority for the purpose of being buried or destroyed, or with a certifi-te of an inspector of the local authority certifying that the carcase oved did not belong to a sheep affected with sheep-pox.

15.—(1.) The local authority shall cause all sheep affected with sheep-ox to be slaughtered.

(2.) The local authority may, if they think fit, cause any sheep being having been in the same shed or stable, or flock, or in contact with sheep affected with sheep-pox, to be slaughtered.

(3.) The local authority shall, out of the local rate, pay compensation r sheep slaughtered under this article as follows:—

(a.) Where the sheep slaughtered was affected with sheep-pox, the mpensation shall be one-half of its value immediately before it became affected, but so that the compensation do not in any such case exceed rty shillings.

(b.) In every other case the compensation shall be the value of the eep immediately before it was slaughtered, but so that the compensa-on do not in any case exceed four pounds.

16. Where a local authority have declared a place to be infected with eep-pox, they may, if they think fit, at any time after the expiration f twenty-eight days from the date of the cessation therein of that isease, but not sooner, declare by order that place to be free from eep-pox.

Sheep-Scab.

17. A person having in his possession or under his charge a sheep ffected with sheep-scab, shall treat that sheep, or cause it to be treated. rith some dressing or dipping, or other remedy for sheep-scab.

Movement or Exposure of Diseased Animals and Horses.

18.—(1.) It shall not be lawful for any person to do any of the follow-ng things—

(a.) To expose a diseased or suspected animal, horse, ass, or mule in a narket or fair, or in a sale-yard, or other public or private place, where nimals or horses are commonly exposed for sale.

(b.) To place a diseased or suspected animal, horse, ass, or mule in a air or other place adjacent to or connected with a market or a fair, or where animals or horses are commonly placed before exposure for sale.

(c.) To send or carry or cause to be sent or carried a diseased or uspected animal, horse, ass, or mule on a railway, canal, river, or inland avigation, or in a coasting vessel.

(d.) To carry, lead, or drive, or cause to be carried, led, or driven a liseased or suspected animal, horse, ass, or mule on a highway or horoughfare.

(e.) To place or keep a diseased or suspected animal, horse, ass, or nule on common or uninclosed land, or in a field or place insufficiently fenced, or on the side of a highway.

(2.) But this article shall operate subject to the special provisions The Diseased Animals (in transit) Order of 1878, and of the Infect Places and Areas (Movement) Order of 1878.

19.—(1.) Where an animal, horse, ass, or mule is exposed or othe wise dealt with in contravention of the last foregoing article, the i spector or other officer of the local authority appointed in that beh shall seize and detain the same, and the same shall be dealt with follows:

(*a*.) If affected with cattle plague or sheep-pox the animal shall slaughtered in accordance with the provisions of the act of 1878 and this Order;

(*b*.) If affected with pleuro-pneumonia or foot-and-mouth disease, t animal shall be dealt with in accordance with the provisions of T Diseased Animals (in transit) Order of 1878;

(*c*.) If affected with sheep-scab the sheep shall be removed to so convenient and isolated place, and shall be there kept for such time the local authority think expedient; and

(*d*.) If affected with glanders or farcy the horse, ass, or mule shall forthwith slaughtered, and, if not slaughtered at the place were seize it may be moved under the direction and in charge of the inspector other officer to the nearest available horse-slaughterer's or knacker yard, to be there slaughtered; and the inspector or other officer sha report the fact of the slaughter to the local authority.

(2.) The local authority may recover the expenses of the execution b them or by their inspector or other officer of the foregoing provisions this article from the owner of the animal, horse, ass, or mule, or fro the consignor or consignee thereof, who may recover the same from t owner.

(3.) In the case of a diseased animal, horse, ass, or mule being seiz in accordance with the provisions of this article, it shall not be law for the market authority or any person to again use or allow to be us for animals, horses, asses, or mules that portion of the market or pl where the diseased animal, horse, ass, or mule was found unless a until a veterinary inspector of the local authority has certified th that portion has been, as far as practicable, cleansed and disinfected.

Movement or Exposure of Dung or other Things.

20. It shall not be lawful for any person to send or carry, or cause t be sent or carried, on a railway, canal, river, or inland navigation, or a coasting vessel, or on a highway, or thoroughfare, any dung, or a fodder or litter which has been in a place infected with pleuro-pneumonia, food-and-mouth disease, or sheep-pox, or which has been in contact with or used about a diseased animal, horse, ass, or mule, exc with a licence of the local authority, to be given on a certificate of a inspector certifying that the thing moved has been, as far as practicable, disinfected.

Carcases.

21.—(1.) Every local authority shall cause the carcase of every animal, horse, ass, or mule that has died of pleuro-pneumonia, foot-and-mouth disease, sheep-pox, sheep-scab, glanders or farcy, or has been slaughtered in consequence of being affected with sheep-pox, glanders, or farcy, to be buried as soon as possible in its skin in some proper place, and to be covered with a sufficient quantity of quicklime or other disinfectant, and with not less than six feet of earth, and, with a view to the carrying out of the provisions of this article, the local authority may, from time to time, make regulations for prohibiting or regulating the removal of any such carcase or for securing the burial of the same:

(2.) Or the local authority may, if authorized by licence from the privy council, cause the carcase to be destroyed, under the inspection of the local authority, in the mode following:

The carcase shall be disinfected, and shall then be removed, in charge of an officer of the local authority, to a horse-slaughterer's or knacker's yard approved for the purpose by the privy council, or other place so approved, and shall be there destroyed by exposure to a high temperature, or by chemical agents.

3.) In every such case the local authority shall report to the privy ncil the fact and mode of destruction.

4.) Where, under this article, a local authority cause the carcase of animal, horse, ass, or mule to be buried, they shall cause its skin to first so slashed as to make it useless.

22. It shall not be lawful for any person, except with the licence of privy council, to dig up, or cause to be dug up, the carcase of an imal, horse, ass, or mule buried under a regulation of a local autho- or under the direction of the privy council or of a receiver of eck.

General Provisions.

23. The constable to whom notice of the fact of an animal being ected with pleuro-pneumonia, foot-and-mouth disease, sheep-pox, or eep-scab, or with disease supposed to be pleuro-pneumonia, foot-and- outh disease, sheep-pox, or sheep-scab, is given under section thirty- e of the act of 1878, shall forthwith give information thereof to an spector of the local authority, who shall forthwith report the same to e local authority.

24. Any person having in his possession or under his charge an imal affected with disease, or with any illness, or suspected of being affected, besides giving such notice to a constable as he is required section thirty-one of the act of 1878 to give, may, if he thinks fit, ve notice of the fact of the animal being so affected, or suspected, to e inspector of the local authority.

25. An inspector of a local authority on receiving in any manner hatsoever information of the supposed existence of disease, or having asonable ground to suspect the existence of disease, shall proceed with l practicable speed to the place where the disease, according to the formation received by him, exists, or is suspected to exist, and shall ecute and discharge the powers and duties by or under the act of 78, and any order of council, conferred and imposed on him as spector.

26. The forms given in the first schedule, with such variations as rcumstances require, may be used by an inspector for the purposes of e act of 1878, and of this order.

27. Where an inspector of a local authority finds in his district pleuro- neumonia, foot-and-mouth disease, sheep-pox, glanders, or farcy, he all forthwith make a return thereof to the local authority and to the ivy council, on a form provided by the privy council, with all particu- rs therein required, and shall continue to so make a return thereof on e Saturday of every week until the disease has ceased.

28. Where an inspector of a local authority finds in his district sheep- cab, he shall forthwith make a return thereof to the local authority nd to the privy council, on a form provided by the privy council, ith all particulars therein required, and shall continue to so make return thereof on the last day of every month, unless the last day of e month is Sunday, and then on the Saturday previous, until the isease has ceased.

29. An inspector, officer, or constable detaining an animal, horse, ass, r mule under the act of 1878, or any order of council, shall cause it to e supplied with requisite food and water during its detention; and he expenses incurred by him in respect thereof may be recovered from he person having charge of the animal, horse, ass, or mule, or from its wner.

30. Every local authority shall publish notice by placards, handbills, r otherwise, in the immediate neighbourhood of every place or area

declared infected, of the fact of such declaration, and shall conti such publication until the place or area has been declared free f disease.

31. A local authority declaring by order a place to be free from dis shall forthwith report to the privy council the fact of such declara having been made.

32. A local authority may require the value of an animal slaughte by their order to be ascertained by their officers, or by arbitration.

33. Every local authority shall keep in the form given in the sec schedule, or a form to the like effect, a record relative to anim slaughtered by their order, stating the particulars indicated in the f given in the said schedule, with such variations as circumstan require.

34. A local authority may, from time to time, revoke or alter order, prohibition, or regulation made by them under the act of 187 any order of council.

35. Every local authority shall send to the privy council a copy every order, prohibition, or regulation made by them.

36. If the privy council are satisfied on inquiry, with respect to prohibition or regulation made by a local authority under the ac 1878 or under any order of council, that the same is of too restrictiv character, or otherwise objectionable, and direct the revocation there the same shall thereupon cease to operate.

37. Whenever an inspector is appointed under section forty-tw the act of 1878, or there is any change in the name or addre district of such an inspector, the local authority shall forthwith rep the same to the privy council.

38. Except where otherwise provided for in any order of counc local authority shall provide and supply, without charge, printed cop of documents or forms requisite under the act of 1878, or any order council.

C. L. PEEL.

THE FIRST SCHEDULE.

FORMS FOR USE BY INSPECTOR.

(1.)

DECLARATION OF DISEASE.

The Contagious Diseases (Animals) Act, 1878.

I, *A.B.* of , the inspector appointed by being the lo authority for the [county] of , hereby declare that I have this da found cattle plague [*or* pleuro-pneumonia, *or* foot-and-mouth disease, sheep-pox] to exist in the following cow-shed, field, or other place, th is to say,) [*here describe the place where the disease is found*].

Dated this day of 18 .

(Signed) *A.B.*

(2.)

NOTICE OF DECLARATION (No. 1) TO OCCUPIER IN CATTLE PLAGUE.

The Contagious Diseases (Animals) Act, 1878.

To *C.D.*

I, *A.B.* of , the inspector appointed by , being the lo authority for the [county] of , hereby give you notice as the occu pier of the following cow-shed, field, or other place (that is to say [*here describe the place where the disease is found*], that I have made a declara tion, a copy whereof is indorsed on this notice, [*copy of declaration N. 1 as filled up and signed to be indorsed*], and that in consequence thereof the cow-shed, field, or other place aforesaid, with all lands and building

stiguous thereto in your occupation, have become and are a place fected with cattle plague, and that the same will continue to be a place infected until the determination and declaration relative thereto of the ivy council, as provided for in section ten of the above-mentioned act.

Dated this day of 18 .

(Signed) *A.B.*

(3.)

NOTICE OF DECLARATION (No. 1) TO OCCUPIER IN PLEURO-PNEUMONIA.

The Contagious Diseases (Animals) Act, 1878.

To *C.D.* of

I, *A.B.* of , the inspector appointed by , being the local thority for the [county] of , hereby give you notice, as the occuer of the following cow-shed, field, or other place (that is to say), [*here scribe the place where the disease is found*], that I have made a declaraon, a copy whereof is indorsed on this notice [*copy of declaration (No. 1) filled up and signed to be indorsed*,] and that in consequence thereof the w-shed, field, or other place aforesaid has become and is a place fected with pleuro-pneumonia, and that the same will continue to a place so infected until the determination and declaration of the cal authority, as provided for in section sixteen of the above-menoned act.

Dated this day of 18 .

(Signed) *A.B.*

(4.)

NOTICE OF DECLARATION (No. 1) TO OCCUPIER IN FOOT-AND-MOUTH DISEASE.

The Contagious Diseases (Animals) Act, 1878.

To *C.D.* of

I, *A.B.* of , the inspector appointed by , being the local thority for the [county] of , hereby give you notice, as the occuer of the following cow-shed, field, or other place (that is to say), [*here scribe the place where the disease is found*], that I have made a declaraon, a copy whereof is indorsed on this notice [*copy of declaration (No. 1) filled up and signed to be indorsed*], and that in consequence thereof the w-shed, field, or other place aforesaid, has become and is a place fected with foot-and-mouth disease, and that the same will continue to a place so infected until the determination and declaration of the cal authority, as provided for in section twenty-two of the above-entioned act.

Dated this day of 18 .

(Signed) *A.B.*

(5.)

NOTICE OF DECLARATION (No. 1) TO ADJOINING OCCUPIERS IN CATTLE PLAGUE.

The Contagious Diseases (Animals) Act, 1878.

To *E.F.* of

I, *A.B.* of , the inspector appointed by , being the local thority for the [county] of , hereby give you notice that I have ade a declaration, a copy whereof is indorsed on this notice [*copy of eclaration (No. 1) as filled up and signed to be indorsed*], and that in consenence thereof the cow-shed, field, or other place therein described, with l lands and buildings contiguous thereto in the same occupation, have

become and are a place infected with cattle plague, and the same w continue to be a place so infected until the determination and declarati relative thereto of the privy council, as provided for in section ten of t above-mentioned act. And I hereby require you, as an occupier of lan and buildings, part [*or* the whole] whereof lies within one mile from th cow-shed, field, or other place, to take notice that in consequence of t declaration aforesaid the rules of the said act with respect to pla infected with cattle plague will, until such determination and declarati of the privy council as aforesaid, apply and have effect to and in resp of the lands and buildings of which you are occupier, as if the same we actually within the limits of the place so infected.

Dated this day of 18 .

(Signed) *A.B.*

(6.)

NOTICE OF DECLARATION (No. 1) TO ADJOINING OCCUPIERS OF CONTIGUOUS LANDS IN FOOT-AND-MOUTH DISEASE.

The Contagious Diseases (Animals) Act, 1878.

To *E.F.* of

I, *A.B.* of , the inspector appointed by , being the loc authority for the [county] of , hereby give you notice that I ha made a declaration, a copy whereof is indorsed on this notice [*copy declaration* (*No.* 1) *as filled up and signed to be indorsed*], and that in conse quence thereof the cow-shed, field or other place therein described, h become and is a place infected with foot-and-mouth disease, and the sa will continue to be a place so infected until the determination and decl ration relative thereto of the local authority, as provided for in sectio twenty-two of the above-mentioned act.

Dated this day of 18 .

(Signed) *A.B.*

FORM OF RECORD.*

The Contagious Diseases (Animals) Act, 1878.

County [*or* Borough, *or* Burgh] of

RECORD.

PART I.—*Record of each Animal affected with Pleuro-pneumonia* [or *Sheep-pox*] *Slaughtered* (*or reserved for Observation and Treatment*) *in pursuance of the above-mentioned Act.*

Date of the Order for Slaughter by the Local Authority.	Date of the Execution of the Order.	Name of Premises on which the Animal was Slaughtered, and of the Parish in which situate.	Name and Address of the Owner of the Animal.	Description of the Animal Slaughtered, whether Bull, Cow, Ox, Heifer, or Calf; [*or* Sheep].	Value of the Animal immediately before it was Affected.	Date of Valuation.	Name and Address of the Valuator.	Number of Animals Valued.	Amount of Valuation per Head.	Number Slaughtered.	Number died since Valuation.	Witness to the Slaughtering.	Amount of Compensation to Owner per Head.	Total Amount of Compensation paid by the Local Authority to the Owner.
					£ s. d.				£ s. d.				£ s. d.	£ s. d.

Of the above Animals the following were reserved for Observation and Treatment by direction of the Privy Council, dated

REMARKS:—

* These Registers are kept ready for use by Messrs. Knight & Co.

PART II.—*Record of each Animal that, having been in the same Shed or Herd* [or *Flock*], *or in contact with any Animal affected with Pleuro-pneumonia* [or *Sheep-pox*], *has been Slaughtered in pursuance of the above-mentioned Act.*

Date of the Order for Slaughter by the Local Authority.	Date of the Execution of the Order.	Name of Premises on which the Animal was Slaughtered, and of the Parish in which situate.	Name and Address of the Owner of the Animal.	Description of the Animal Slaughtered, whether Bull, Cow, Ox, Heifer, or Calf; [*or* Sheep].	Value of the Animal Slaughtered.	Date of Valuation.	Name and Address of the Valuator.	Number of Animals Valued.	Amount of Valuation per Head.	Number Slaughtered.	Witness to the Slaughtering.	Amount of Compensation to Owner per Head.	Total Amount of Compensation paid by the Local Authority to the Owner.
					£ s. d.				£ s. d.			£ s. d.	£ s. d.

REMARKS:—

E CLEANSING AND DISINFECTION ORDER OF 1878.

At the *Council Chamber, Whitehall*, the 16th day of *August*, 1878.

e lords and others of her Majesty's most honourable privy council, rtue and in exercise of the powers in them vested under the Con- us Diseases (Animals) Act, 1878, and of every other power enabling in this behalf, do order, and it is hereby ordered, as follows:—

This order may be cited as The Cleansing and Disinfection Order 78.

This order shall take effect from and immediately after the thirtieth f September, one thousand eight hundred and seventy-eight.

This order extends to Great Britain only.

In this order—

e act of 1878 means The Contagious Diseases (Animals) Act, 1878:

ster includes a person having the charge or command of a vessel:

ading-pen means a stationary pen or other inclosed space being in or about a station, building, or land of a railway company, and used or intended for the reception or keeping of animals before, after, or in the course of their transit by railway:

uck means a vehicle used or intended for carrying animals on a railway:

an means a vehicle used or intended for carrying animals on land otherwise than on a railway:

her terms have the same meaning as in the act of 1878.

Every vessel used for carrying animals by sea, or on a canal, navi- on, or river, shall, after the landing of animals therefrom, and before taking on board of any fresh animals or other cargo, be cleansed and ifected in the mode following:

.) By the scraping or sweeping of all parts of the vessel with which nals or their droppings have come in contact:

.) Then by the thorough washing or scrubbing or scouring of the e parts of the vessel with water:

.) Then by the application to the same parts of the vessel (except e parts ordinarily used for passengers) of a coating of lime-wash, con- ing in each gallon of lime-wash four ounces of chloride of lime: and

.) By the application to the same parts of the vessel ordinarily used passengers of lime-wash or water, containing in each gallon of lime- h or water four ounces of chloride of lime.

he scrapings or sweeping of the vessel shall not be landed until well ed with quicklime.

very loading-pen shall be cleansed and disinfected, either on each on which it is used after the using thereof, or at some time not r than twelve o'clock at noon of the next following day, unless the owing day is Sunday, and then of the Monday following, and before using thereof.

. Every truck and every van shall, on every occasion after an animal aken out of the same, and before any other animal is placed therein, cleansed and disinfected.

. A loading-pen, truck, and van shall be cleansed and disinfected in mode following:

1.) By the scraping or sweeping of all parts of the loading-pen, truck, van with which animals or their droppings have come in contact, and effectual removal from the loading-pen, truck, or van of all dung, dust, litter, and other matter:

(2.) Then by the thorough washing of the same parts with water:

(3.) Then by the application to the same parts of a coating of lime- ah, containing in each gallon of lime-wash four ounces of chloride of me.

The sweepings of the loading-pen, truck, or van shall forthwith be ll mixed with quicklime, and be effectually removed from contact th animals.

9. Every movable gangway or passage-way, cage, or other apparatus,

used or intended for the loading or unloading of animals on or fr truck or vessel, or otherwise used in connection with the trans animals, shall, as soon as practicable, after being so used be cleans the mode following:

(1.) By the scraping or sweeping and the effectual removal there of all dung, litter, and other matter:

(2.) Then by the thorough washing thereof with water.

10. Where an animal at a place of landing or place adjacent th is affected with disease, that place and every other place wher animal is or has been shall not be used for any animals other animals brought thereto with that animal (in the same vessel or c wise), unless and until the place has been cleansed and disinfected.

11. A local authority shall cause the cow-shed, field, or other pla which an animal affected with pleuro-pneumonia, foot-and-m disease, or sheep-pox has been kept while so affected, or has di been slaughtered, to be, so far as practicable, cleansed and disinfe and all litter, dung, or other thing that has been in contact with or about any such animal to be disinfected, burnt, or destroyed.

12. A local authority may, from time to time, make regulation providing for the cleansing and disinfection of places used by dis animals, and may prescribe the mode in which such cleansing and disinfection are to be effected.

13. Where a local authority exercise the power of causing a pla be cleansed and disinfected, the occupier thereof shall give all reason facilities for that purpose.

14. If anything is done or omitted to be done in contravention of of the foregoing provisions, the owner and the master of the vessel which,—and the railway company carrying animals on or owning working the railway on which,—and the owner of the gangway passage-way, cage, or other apparatus in respect of which,—and owner and the occupier of the place of landing or place adjacent the or other place in which,—and the occupier of any other place in of which,—(as the case may be,) the same is done or omitted, shall be deemed guilty of an offence against the act of 1878.

15. A local authority may, from time to time, make regulation the following purposes, or any of them:—

For requiring the owners, lessees, or occupiers of markets, fairs, yards, places of exhibition, lairs, or other places used for ani to cleanse those places, from time to time, at their own expense.

For requiring the owners, lessees, or occupiers of those places to infect the same, or any specified part thereof, from time to time their own expense, where, in the judgment of the local auth the circumstances are such as to allow of such disinfection be reasonably required:

For prescribing the mode in which such cleansing and such disin tion are to be effected.

If the owner, lessee, or occupier of any such place does any act contravention of the regulations of a local authority under this or fails in any respect to observe the same, it shall not be lawful for or any other person at any time thereafter, until further order of privy council, to hold a market, fair, sale, or exhibition of animals that place, or to use that lair or place for animals, and the holding therein of any market, fair, sale, or exhibition of animals, and the use that lair or place for animals, shall be, and the same is hereby prohibited accordingly.

C. L. Pe

THE DISEASED ANIMALS (IN TRANSIT) ORDER OF 1879.

At the Council Chamber, Whitehall, the 16th day of August, 1879

The lords and others of her Majesty's most honourable privy council by virtue and in exercise of the powers in them vested under the Contagious Diseases (Animals) Act, 1878, and of every other power enabling them in this behalf, do order, and it is hereby ordered, as follows:—

1. This order may be cited as The Diseased Animals (in Transit) Order 1878.
2. This order shall take effect from and immediately after the thirtieth y of September, one thousand eight hundred and seventy-eight.
3. This order extends to Great Britain only.
4. In this order the act of 1878 means The Contagious Diseases nimals) Act, 1878:
Other terms have the same meaning as in the act of 1878.
5. By virtue of section twenty-seven of the act of 1878, where an imal is found to be affected with pleuro-pneumonia or foot-and-mouth ease—
(1.) While exposed for sale or exhibited in a market, fair, sale-yard, ace of exhibition, or other place; or
(2.) While placed in a lair or other place before exposure for sale; or
(3.) While being in or on a landing-place or wharf or other place ring transit, or while in course of being moved by land or by water;

(4.) While being on common or uninclosed land; or generally
(5.) While being in a place not in the possession or occupation or der the control of the owner of the animal;
Then the following special regulations shall apply in case of—

A.—*Pleuro-Pneumonia.*

(a.) Where pleuro-pneumonia is found to exist, the inspector of the al authority shall seize and detain all the diseased cattle.
(b.) The diseased cattle so seized shall, if not slaughtered at the place ere they are seized, be moved to the nearest available slaughter-house th a licence of the inspector; and that licence shall be in force for elve hours, and no longer, and shall specify the slaughter-house to ich the cattle are to be moved for slaughter; and they shall be there ughtered in accordance with the provisions of the act of 1878:
And the following special regulations shall apply in case of—

B.—*Foot-and-Mouth Disease.*

(c.) Where foot-and-mouth disease is found to exist, the inspector of local authority shall seize and detain all the diseased animals.
(d.) The diseased animals so seized may be slaughtered by or at the quest of the owner or person in charge thereof, either at the place ere they are seized, or at the nearest available slaughter-house; in ich latter case they may be moved for the purpose of being there ughtered, with a licence of the inspector; and that licence shall be in ce for twelve hours and no longer, and shall specify the slaughter-use to which the animals are to be moved for slaughter; or the diseased imals, if not slaughtered as aforesaid, shall be moved in charge of the pector or other officer of the local authority appointed in that behalf, some convenient and isolated place, and shall be there kept for such e as the local authority think expedient, subject, however, to their ing there slaughtered at any time by or at the request of the owner or rson in charge thereof:
And the following regulations shall apply in case of—

C.—*Animals not Diseased.*

(e.) All animals in the market or other place referred to in this article er than the diseased animals so seized, may be moved in all respects if no disease had been found in that market or other place.
6. In the case of an animal being found to be affected with pleuro-eumonia or foot-and-mouth disease in a market or other place referred in the last foregoing article, it shall not be lawful for the market thority or any person to again use or allow to be used for animals that rtion of the market or other place where the diseased animal was

found, unless and until a veterinary inspector of the local authority certified that that portion has been, as far as practicable, cleansed disinfected.

7. Notwithstanding anything in the act of 1878, or any order council, a market or other place aforesaid, or any part thereof, shall be declared to be an infected place, or be made part of an infected pl except by the Privy Council; and a slaughter-house, or any part ther to which a diseased animal is moved for slaughter under this order, sl not, by reason thereof, be declared to be an infected place.

8. The inspector of the local authority acting under this order sl forthwith report to the local authority the action taken by him he under, and the local authority shall forthwith report the same to Privy Council.

9. The local authority may recover the expenses of the execution them, or by their inspector or officer, of this order from the owner of animals seized, or from the consignor or consignee thereof, who may cover the same from the owner.

10. Nothing in this order shall apply to a foreign animals' wharf or a foreign animals' quarantine station. C. L. PEEL.

THE INFECTED PLACES AND AREAS (MOVEMENT) ORDE OF 1878.

At the *Council Chamber, Whitehall*, the 16th day of *August*, 1878.

The lords and others of her Majesty's most honourable privy coun by virtue and in exercise of the powers in them vested under the Co tagious Diseases (Animals) Act, 1878, and of every other power enablin them in this behalf, do order, and it is hereby ordered, as follows:

1. This order may be cited as the Infected Places and Areas (Mov ment) Order of 1878.

2. This order shall take effect from and immediately after the thirtie day of September, one thousand eight hundred and seventy-eight.

3. This order extends to Great Britain only.

4. In this order—

The act of 1878 means The Contagious Diseases (Animals) Act, 1878:

Other terms have the same meaning as in the act of 1878.

Places infected with Pleuro-Pneumonia.

5. Cattle not affected with pleuro-pneumonia may be moved into place infected with pleuro-pneumonia, with a licence of the local authority, to be granted on a certificate of a veterinary inspector, certifying that all the cattle in the infected place have died or been slaughtered and that the cow-sheds or other places where the diseased cattle were kept have been, as far as practicable, cleansed and disinfected.

6. Cattle affected with pleuro-pneumonia may, by order of council to be made on the application of a local authority, be moved out of places infected with pleuro-pneumonia, for slaughter, in the manner and on the conditions in that order specified, where the privy council are satisfied on the representation of a local authority, that the slaughter of diseased cattle in infected places in the district of that local authority is impracticable or would be highly inconvenient.

7. Cattle not affected with pleuro-pneumonia may be moved out of a place infected with pleuro-pneumonia:

(1.) To a slaughter-house for the purpose of being slaughtered, with a licence of the local authority, to be granted on a certificate of a veterinary inspector certifying that the cattle moved are not affected with pleuro-pneumonia. That licence shall be available for twelve hours and no longer, and shall specify the slaughter-house to which the cattle are to be moved for slaughter. The cattle so moved shall be moved under the direction and in charge of an inspector or other officer of the local authority appointed in that behalf, who shall report the fact of the slaughter to the local authority: or

2.) To other premises, for purposes of feeding, or other ordinary purposes connected with the breeding or rearing of cattle, or for the purpose of isolation, with a licence of the local authority, to be granted on a certificate of a veterinary inspector certifying that the cattle moved are not affected with pleuro-pneumonia. That licence shall specify the place from which, and the place to which, and the person to whom they are to be moved, and the time for which the licence is available, and the purposes and conditions for and on which the movement and keeping are allowed; and the cattle moved thereunder shall be kept at the place specified for the time and according to the conditions specified in the licence. The cattle moved in pursuance of the licence shall be moved under the direction and in charge of an inspector or other officer of the local authority appointed in that behalf.

it nothing in this article shall be deemed to authorize the granting of licence by a local authority for the movement of cattle into the district another local authority, or to a market, fair, sale-yard, or place of hibition.

Areas infected with Pleuro-Pneumonia.

8. Cattle not affected with pleuro-pneumonia may be moved into or in ch parts of an area infected with pleuro-pneumonia as are not comised in a place infected with pleuro-pneumonia, with a licence of the cal authority, to be granted on a certificate of a veterinary inspector rtifying that the cattle to be moved are not affected with pleuroeumonia, and have not, to the best of his knowledge and belief, been xposed to the infection of pleuro-pneumonia.

9. Cattle not affected with pleuro-pneumonia may be moved out of ch parts of an area infected with pleuro-pneumonia as are not comrised in a place infected with pleuro-pneumonia, with a licence of the cal authority, to be granted on a certificate of a veterniary inspector rtifying that the cattle are not affected with pleuro-pneumonia, and ave not, to the best of his knowledge and belief, been exposed to the ifection of pleuro-pneumonia. That licence shall specify the place to hich, and the person to whom, they are to be moved, and, if the cattle re to be moved into the district of another local authority, there shall lso be requisite a licence of the local authority of the district into hich they are to be moved, indorsed on or referring to such firstentioned licence; and the cattle, after they are received at the place pecified in the licence, are not to be moved in the district of that local uthority except with the further licence of that local authority.

Places Infected with Foot-and-Mouth Disease.

10. Animals may be moved into a place infected with foot-and-mouth lisease with a licence of the local authority, to be granted on a certificate f a veterinary inspector certifying that all the diseased animals have died r been slaughtered, and that the cow-sheds or other places where the liseased animals were kept have been, as far as practicable, cleansed and lisinfected.

11. Animals not affected with foot-and-mouth disease may be moved ut of a place infected with foot-and-mouth disease:

(1.) To a slaughter-house, for the purpose of being slaughtered, with a licence of the local authority, to be granted on a certificate of a veterinary inspector certifying that the animals are not affected with foot-and-mouth disease. That licence shall be available for twelve hours, and no longer, and shall specify the slaughter-house to which the animals are to be moved for slaughter. The animals so moved shall be moved under the direction and in charge of an inspector or other officer of the local authority appointed in that behalf, who shall report the fact of the slaughter to the local authority: or

(2.) To other premises for purposes of feeding, or other ordinary pu poses connected with the breeding or rearing of animals, or for t purpose of isolation, with a licence of the local authority, to granted on a certificate of a veterinary inspector certifying that t animals moved are not affected with foot-and-mouth disease. Th licence shall specify the place from which, and the place to whi and the person to whom, they are to be moved, and the time which the licence is available, and the purposes and conditions and on which the movement and keeping are allowed; and t animals moved thereunder shall be kept at the place specified the time and according to the conditions specified in the licen The animals moved in pursuance of the licence shall be moved und the direction and in charge of an inspector or other officer of t local authority appointed in that behalf.

But nothing in this article shall be deemed to authorize the grantin a licence by a local authority for the movement of animals into t district of another local authority, or to a market, fair, sale-yard, place of exhibition.

Areas Infected with Foot-and-Mouth Disease.

12. Animals not affected with foot-and-mouth disease may be mov into or in such parts of an area infected with foot-and-mouth disea as are not comprised in a place infected with foot-and-mouth disea with a licence of the local authority, to be granted on a certificate of veterinary inspector certifying that the animals to be moved are n affected with foot-and-mouth disease, and have not, to the best of h knowledge and belief, been exposed to the infection of foot-and-mou disease.

13. Animals not affected with foot-and-mouth disease may be mov out of such parts of an area infected with foot-and-mouth disease as a not comprised in a place infected with foot-and-mouth disease, wit licence of the local authority, to be granted on a certificate of veterinary inspector certifying that the animals are not affected wi foot-and-mouth disease, and have not, to the best of his knowledge a belief, been exposed to the infection of foot-and-mouth disease. Th licence shall specify the place to which, and the person to whom, the are to be moved, and, if the animals are to be moved into the distri of another local authority, there shall also be requisite a licence of th local authority of the district into which they are to be moved, indorse on or referring to such first-mentioned licence; and the animals aft they are received at the place specified in the licence, are not to b moved in the district of that local authority except with the furth licence of that local authority.

C. L. Phil.

THE FOOT-AND-MOUTH DISEASE (INFECTED AREAS) ORDER OF 1881.

1. This order may be cited as the Foot-and-Mouth Disease (Infected Areas) Order of 1881.

2. This order shall commence and take effect from and immediately aft the sixteenth day of January, one thousand eight hundred and eighty-one, and shall operate notwithstanding anything in the animals order; and words in this order have the same meaning as in the animals order.

3. This order operates in and in relation to all areas for the time being declared by the privy council to be areas infected with foot-and-mouth disease in England or Wales or Scotland, but not elsewhere.

Markets, Fairs, Exhibitions, and Public Sales in Infected Areas.

4. No market, fair, exhibition, or sale by public auction or other public sale of animals (whether or not being fat animals intended for slaughter) shall be held in an area infected with foot-and-mouth disease, except as authorized by or under this order.

5. Markets, fairs, exhibitions, and sales by public auction or other public sales for the sale or exhibition of fat animals intended for slaughter may be held in an area infected with foot-and-mouth disease, with the licence of the local authority, on the following conditions; and every such licence shall specify the following as the conditions on which the licence is granted (namely):

(*a.*) Cattle exposed for sale or exhibited in a market, fair, exhibition, or sale so licensed shall be marked by the owner, consignee, or other person exposing or exhibiting the cattle, at his own expense, by clipping a broad arrow, about five inches long, on the left hind quarter of each of them.

(*b.*) Animals so exposed for sale or exhibited shall be slaughtered within six days after such exposure or exhibition.

(*c.*) Animals so exposed or exhibited shall not be afterwards exposed or exhibited in or at any other market, fair, exhibition, sale by public auction or other public sale of animals.

(*d.*) Animals so exposed for sale shall not be moved alive out of the infected area.

6. If the privy council are of opinion on inquiry, with respect to any licence granted by a local authority under this order, that the holding of the market, fair, exhibition, or sale thereby licensed is inexpedient, or that the licence is objectionable in any particular, and direct the revocation thereof, the same shall thereupon cease to operate.

7. Without prejudice to the foregoing provisions and in addition thereto, markets, fairs, exhibitions, and sales by public auction or other public sales of animals (whether or not being fat animals intended for slaughter) may be held with the licence of the privy council.

8. Nothing in the foregoing provisions shall be deemed to interfere with, or make a licence (either of the privy council or of a local authority) necessary for, a sale of animals being on a farm or premises not in a place infected with foot-and-mouth disease, in case the animals are not affected with foot-and-mouth disease, and have been on the farm or premises not less than twenty-eight days immediately before the sale.

Movement in or into or out of Infected Areas.

9. (*a.*) Animals not affected with foot-and-mouth disease may be moved in or into or out of such parts of an area infected with foot-and-mouth disease as are not comprised in a place infected with foot-and-mouth disease, in accordance with the following regulations, and not otherwise:

A.—*Movement in.*

(i.) The animals may be moved in those parts of the area with a licence of the local authority, on a certificate of a veterinary inspector certifying that the animals to be moved are not affected with foot-and-mouth disease, and have not, to the best of his knowledge and belief, been exposed to the infection of foot-and-mouth disease, or on a declaration such as is indicated in Form A in the schedule to this order, or to the like effect, made by the owner of the animals described in the declaration, or by his agent authorized in writing for that purpose.

(ii.) The animals may be moved in those parts of the area from one part of a farm or of farms in the same occupation to another part of that farm or of those forms, or from and to a farm or premises to and from a common or grazing-land which the occupier of the farm or premises is entitled to use for the animals, with a licence of the local authority (to be called an occupation licence) such as is indicated in Form B in the schedule to this order, or to the like effect, on a certificate or declaration as aforesaid; which occupation licence may authorize the movement from time to time of those animals for a period of fourteen days and no longer.

B.—*Movement into.*

(iii.) The animals may be moved into those parts of the area with licence of the local authority, on a certificate or declaration aforesaid.

C.—*Movement into, from another District.*

(iv.) If the animals to be moved into those parts of the area, under Regulation B, are to be moved out of the district of another local authority, whether that district is within the area or not, the licence must be a licence of the local authority out of whose district the animals are to be moved; and there must also be a licence of the local authority into whose district the animals are to be moved, indorsed on or referring to the first-mentioned licence; which second licence must be obtained before the animals are so moved.

D.—*Movement out.*

(v.) The animals may be moved out of those parts of the area with a licence of the local authority, on a certificate or declaration aforesaid.

(vi.) The licence shall specify the place to which, and the person to whom, the animals are to be moved.

(vii.) The animals, after they are received at the place specified in the licence, shall not be again moved except with a further licence of the local authority of the district in which that place is situate.

E.—*Movement out, into another District.*

(viii.) If the animals are to be moved into the district of another local authority under regulation D, there must also be a licence of that other local authority indorsed on or referring to the first-mentioned licence; which second licence must be obtained before the animals are so moved.

(ix.) The animals, after they are received at the place specified in the licence of that other local authority, shall not be again moved except with a further licence of that other local authority.

(*b.*) Nothing in regulation D or E shall authorize the granting of a licence by a local authority for the movement out of an area infected with foot-and-mouth disease of animals that have been exposed for sale or exhibited in a market, fair, exhibition, or sale licensed by a local authority under this order.

(*c.*) Nothing in this article shall be deemed to imply that a licence is necessary for movement of animals, except where the movement is intended to be wholly or in part on a highway or thoroughfare, or on a railway, canal, river, or inland navigation.

10.—(*a.*) A licence granted under the last foregoing article shall not be available except when accompanied by the certificate or declaration on which it is granted.

(*b.*) The person granting the licence shall, for the identification of the certificate or declaration produced to him, mark the certificate or declaration by signing his name thereon, with the date of its production to him.

(*c.*) The person granting the licence shall deliver the certificate or declaration with the licence to the person receiving the licence from him.

11. Where an area infected with foot-and-mouth disease comprises the whole or parts of the districts of more local authorities than one, then notwithstanding anything in this order, those local authorities, or any two of them, may, if they think fit, agree that animals may be moved out of the district of one of those local authorities agreeing into the district of another of those local authorities agreeing, without a licence of that other local authority, provided that in every such case the movement is into and out of such parts only of the area as are not comprised in a place infected with foot-and-mouth disease.

Forms.

12.—(*a.*) The forms given in the schedule to this order, with such variations as circumstances require, may be used for the purposes of this order.

(*b.*) The words set forth in Form E in the schedule to this order, or words to the like effect, shall be printed on the back of each licence issued in Form B, C, or D in the schedule to this order.

(*c.*) Forms of declaration given in the order of council (No. 564) of the thirteenth day of December, one thousand eight hundred and eighty, which have been before the making of this order prepared and are already printed for use by a local authority, may be used, as far as they are suitable, and with the requisite adaptations, for the purposes of this order.

Offences.

13.—(*a.*) If a head of cattle required by this order, or by a licence of the privy council or of a local authority thereunder, to be marked is not so marked, the owner, consignee, or other person exposing or exhibiting the same, and the person for the time being in charge thereof, shall, each according to and in respect of his own acts and defaults, be deemed guilty of an offence against the act of 1878.

(*b.*) If an animal required by this order, or by a licence of the privy council or of a local authority thereunder, to be slaughtered is not so slaughtered, the person failing to cause the same to be so slaughtered shall be deemed guilty of an offence against the act of 1878.

(*c.*) If an animal is moved in contravention of the provisions of this order, or of a licence of the privy council or of a local authority thereunder, the owner thereof, and the person causing, directing, or permitting the movement, and the company or person moving or conveying the animal, shall, each according to and in respect of his or their own acts and defaults, be deemed guilty of an offence against the act of 1878.

(*d.*) If an animal is sold, or exposed, or put up for sale, or exhibited, in contravention of this order, or of a licence of the privy council or of a local authority thereunder, or if a company or person hold a market, fair, exhibition, or sale, in contravention of this order, or fail to comply with any of the conditions, provisions, or regulations of a licence for the holding of a market, fair, exhibition, or sale, the seller of the animal, and the auctioneer putting the same up for sale, and the person exposing the same for sale or exhibiting the same, and the company or person holding the market, fair, exhibition, or sale, or so failing, shall, each according to and in respect of his or their own acts and defaults, be deemed guilty of an offence against the act of 1878.

Revocation.

14.—(*a.*) Articles 20 and 21 (*Area infected with foot-and-mouth disease*) of the animals order, and the order of council (No. 564) of the thirteenth day of December, one thousand eight hundred and eighty, are, as from the commencement of this order, hereby revoked; but nothing in this order shall be deemed to invalidate or make unlawful anything done under those articles or order before this order takes effect, or interfere with the institution or prosecution of any proceeding in respect of any offence committed against, or any penalty incurred under, those articles or order.

(*b.*) As from the commencement of this order, all the regulations relating to the holding of markets, fairs, exhibitions, or sales of animals contained in the orders of council declaring areas to be areas infected with foot-and-mouth disease then in force are hereby revoked; and in lieu

thereof the provisions of this order relating to the holding of markets fairs, exhibitions, or sales of animals shall apply to the holding of markets, fairs, exhibitions, or sales of animals within those areas; and all licences for the holding of markets, exhibitions, or sales of animals granted by the privy council or by a local authority under those orders or any of them, in force at the commencement of this order, are hereby revoked.

C. L. PEEL.

SCHEDULE.

FORM A.

Declaration of Owner or his Agent.

The Contagious Diseases (Animals) Act, 1878.

Foot-and-Mouth Disease.

I, *A. B.*, of , in the county of , do hereby sincerely declare that to the best of my knowledge and belief each of the animals described below is not affected with foot-and-mouth disease, and has not been exposed to the infection of foot-and-mouth disease.

Dated this day of , 18 .

[To be signed] *A. B.*

Number and Description of Animals above referred to.

Cattle	
Sheep [*Twenty Southdowns or as the case may be*]	[20 *or as the case may be.*]
Goats	
Swine	

(Number to be expressed both in words and in figures.)

Caution.—A person making a declaration false in any material particular, or obtaining or endeavouring to obtain a licence by means of a false pretence, is liable, under The Contagious Diseases (Animals) Act, 1878, to fine and imprisonment.

FOOT-AND-MOUTH DISEASE.

OCCUPATION LICENCE.

No.
[*Same as number of Licence.*]

Licence granted on the Certificate [*or* Declaration] of

for movement of animals between

No. of animals

Description

(Signed)

(Dated)

This licence is available for Fourteen days.

This counterfoil is to be retained by the person granting the licence.

FORM B.

OCCUPATION LICENCE.

THE CONTAGIOUS DISEASES (ANIMALS) ACT, 1878.

FOOT-AND-MOUTH DISEASE.

Occupation Licence.

(*For Movement of Animals from one part of a farm or of farms in the same occupation to another part of that farm or of those farms, or from and to a farm or premises to and from a common or grazing-land which the occupier of the farm or premises is entitled to use for the animals.*)

No.

I, *C. D.*, of , being a member of the local authority of the [county] of [*or* being a person appointed by the local authority of , to grant occupation licences for the movement of animals as above-mentioned in an infected area] the accompanying certificate of a veterinary inspector certifying that each of the under-mentioned animals is not affected with foot-and-mouth disease, and has not, to the best of his knowledge and belief, been exposed to the infection of foot-and-mouth disease, [*or*, the accompanying declaration of the owner or his agent, declaring that to the best of his knowledge and belief each of the animals described in that declaration is not affected with foot-and-mouth disease, and has not been exposed to the infection of foot-and-mouth disease], having been produced to me, do hereby license the movement from time to time of those animals between the undermentioned places or premises, such places or premises being within an area infected with foot-and-mouth disease but not being within a place infected with foot-and-mouth disease.

Number and Description of the Animals to be moved.	Name and Address of the Owner of the Animals, or his Agent.	Name and Description of the Places or Premises between which the Animals are to be moved.

This licence is available for Fourteen days, including the day of the date hereof, *and no longer*.

(Signed)
(Address)

Dated this day of , 188 .

(*Read the Indorsement on back of this Licence.*)

FOOT-AND-MOUTH DISEASE.

No.
[*Same as number of Licence.*]

Licence granted on the Certificate [*or* Declaration] of

for movement of animals to

within the area infected with foot-and-mouth disease at

No. of animals

Description

(Signed)

(Dated)

This licence is available for days.

This counterfoil is to be retained by the person granting the licence.

FORM C.

Movement of Animals in or into an Area infected with Foot-and-Mouth Disease.

THE CONTAGIOUS DISEASES (ANIMALS) ACT, 1878.

FOOT-AND-MOUTH DISEASE. *No.*

I, *C. D.*, of , being a member of the local authority of the [county] of [*or* being a person appointed by the local authority of the [county] of to grant licences for the removal of animals in or into areas infected with foot-and-mouth disease], the accompanying certificate of a veterinary inspector certifying that each of the under-mentioned animals is not affected with foot-and-mouth disease, and has not, to the best of his knowledge and belief, been exposed to the infection of foot-and-mouth disease, [*or* the accompanying declaration of the owner or his agent declaring that to the best of his knowledge and belief, each of the animals described in that declaration is not affected with foot-and-mouth disease, and has not been exposed to the infection of foot-and-mouth disease], having been produced to me, do hereby license the movement of those animals to the under-mentioned place or premises, such place or premises being within an area infected with foot-and-mouth disease, but not being within a place infected with foot-and-mouth disease.

If the animals are to be moved out of the district of another local authority, this licence must be granted by the local authority out of whose district the animals are to be moved; and there must also be a licence of the local authority of the district comprising the place or premises to which the animals are to be moved indorsed on or referring to this licence, which second licence must be obtained before the animals are so moved.

Number and Description of the Animals to be moved.	Name and Address of the Owner of the Animals, or his Agent.	Name and Description of the Place or Premises to which the Animals are to be moved.

This licence is available for (*a*) days, including the day of the date hereof, *and no longer*.

(Signed)

(Address)

Dated this day of , 188 .

(*a*) To be filled up in words.

(*Read the Indorsement on back of this Licence.*)

FOOT-AND-MOUTH DISEASE.

No.
[*Same as number of Licence.*]

Licence granted on the Certificate [*or* Declaration] of

for movement of animals out of the area infected with foot-and-mouth disease at

to (*a*)

at

No. of animals

Description

(Signed)

(Dated)

This licence is available for days.

This counterfoil is to be retained by the person granting the licence.

FORM D.

Movement of Animals out of an Area infected with Foot-and-Mouth Disease.

THE CONTAGIOUS DISEASES (ANIMALS) ACT, 1878.

FOOT-AND-MOUTH DISEASE.

No.

I, *C. D.*, of , being a member of the local authority of the [county] of , [*or* being a person appointed by the local authority of the [county] of , to grant licences for the movement of animals out of areas infected with foot-and-mouth disease], the accompanying certificate of a veterinary inspector certifying that each of the under-mentioned animals is not affected with foot-and-mouth disease, and has not, to the best of his knowledge and belief, been exposed to the infection of foot-and-mouth disease, [*or* the accompanying declaration of the owner or his agent, declaring that, to the best of his knowledge and belief each of the animals described in that declaration is not affected with foot-and-mouth disease, and has not been exposed to the infection of foot-and-mouth disease,] having been produced to me, and having satisfied myself that the place where the animals are is not a place infected with foot-and-mouth disease do hereby license the movement of those animals out of the under-mentioned infected area to the under-mentioned place or premises.

If the animals are to be moved into the district of another local authority, there must also be a licence of that other local authority indorsed on or referring to this licence, which second licence must be obtained before the animals are so moved.

Description of the Infected Area.	Number and Description of the Animals to be moved.	Description of the Place or Premises to which the Animals are to be moved.	Name and Address of the Person to whom the Animals are to be moved (*a*).

This licence is available for (*b*) days, including the day of the date hereof, *and no longer*.

(Signed)
(Address)

Dated this day of , 188 .

(*a*) The name and address of the person to whom the animals are to be moved to be inserted.
(*b*) To be filled up in words.

(*Read the Indorsement on back of this Licence.*)

FORM E.

Indorsement on Licence.

The order of council under which this licence is issued, provides, effect, as follows:

(*a*) This licence shall not be available except when accompanied by t certificate or declaration on which it is granted.

(*b*) The person granting the licence shall, for the identification of t certificate or declaration produced to him, mark the certificate or declar tion by signing his name thereon, with the date of its production to hi

(*c*) The person granting the licence shall deliver the certificate declaration with the licence to the person receiving the licence from hi

Caution.—Persons acting without such a licence where such a licence necessary, or acting thereon after the licence has expired, or counterfei ing, fabricating, or altering, or obtaining or endeavouring to obtain licence by means of a false pretence, or granting or issuing a licen knowing the same to be false in any respect, or committing other offenc with respect to licences are liable, under The Contagious Diseas (Animals) Act, 1878, to fine and imprisonment.

The number and description of animals inserted in the licence must the same as the number and description in the certificate or declarati on which the licence is granted.

THE DAIRIES, COW-SHEDS, AND MILK-SHOPS ORDER OF 1879.

The lords and others of her Majesty's most honourable privy council by virtue and in exercise of the powers in them vested under The Co tagious Diseases (Animals) Act, 1878, and of every other power enabli them in this behalf, do order, and it is hereby ordered, as follows:

Preliminary.

1. This order may be cited as The Dairies, Cow-sheds, and Milk-sh Order of 1879.

2. This order shall take effect from and immediately after the maki thereof.

3. This order extends to Great Britain only.

4. In this order—

The act of 1878 means The Contagious Diseases (Animals) Act, 187

Other terms have the same meaning as in the act of 1878.

Registration of Cow-keepers and Others.

5.—(1.) Every local authority shall, with all practicable speed after the making of this order, open, and shall thenceforth keep, a register for the registration with them under this order of all persons from time to time carrying on in their district the trade of cow-keepers, dairymen, or purveyors of milk, and shall, from time to time, revise and correct the register.

(2.) The local authority shall give public notice, by advertisement in a newspaper circulating in their district, and, if they think fit, by placards handbills, or otherwise, of the time at which the register will be opened and of the mode of registration.

(3.) After the expiration of the time prescribed in this behalf in the advertisement, not being more than two months, and not being less than fourteen days, from the publication of the advertisement, it shall not be lawful for any person to carry on in the district of the local authority the trade of a cow-keeper, dairyman, or purveyor of milk, unless he is registered as such under this order.

Dairies and Cow-sheds.

6. It shall not be lawful for any person following the trade of cow-keeper or dairyman to begin to occupy as a dairy or cow-shed any buil

ot so occupied at the making of this order, unless and until he first
s provision, to the reasonable satisfaction of the local authority, for
lighting, ventilation, cleansing, drainage, and water-supply, of the
, while occupied as a dairy or cow-shed.

It shall not be lawful for any person following the trade of cow-
er or dairyman to occupy as a dairy or cow-shed any building,
her so occupied at the making of this order, or not, if and as long as
lighting, ventilation, cleansing, drainage, and water-supply, thereof
ot such as are necessary or proper—

) For the health and good condition of the cattle therein; and

) For the cleanliness of milk-vessels used therein for containing milk
ale; and

) For the protection of the milk therein against infection and con-
nation.

Cleansing.

A local authority may, from time to time, make regulations for pre-
ing and regulating the cleansing of dairies and cow-sheds in the
pation of persons following the trade of cow-keepers or dairymen,
the cleansing of milk-stores, milk-shops, and milk-vessels used for
aining milk for sale by such persons.

Contamination of Milk.

If at any time disease exists among the cattle in a dairy or cow-
, or other building or place, the milk of a diseased cow therein—

) Shall not be mixed with other milk; and

) Shall not be sold or used for human food; and

) Shall not be sold or used for food of swine, or other animals, unless
until it has been boiled.

. It shall not be lawful for any person following the trade of cow-
er, or dairyman, or purveyor of milk, or being the occupier of a
-store or milk-shop, to allow any person suffering from a dangerous
tious disorder, or having recently been in contact with a person so
ring, to milk cows, or to handle vessels used for containing milk for
or in any way to take part or assist in the conduct of the trade or
ness of the cow-keeper, dairyman, purveyor of milk, or occupier of
nilk-store, or milk-shop, as far as regards the production, distribu-
or storage of milk, until all danger therefrom of the communication
fection to the milk, or of its contamination, has ceased.

. It shall not be lawful for a person following the trade of cow-
er or dairyman or purveyor of milk, or being the occupier of a milk-
or milk-shop, to use a milk-store or milk-shop in his occupation,
ermit the same to be used, for any purpose incompatible with the
er preservation of the cleanliness of the milk-store or milk-shop,
of the milk-vessels and milk therein, or in any manner likely to
e contamination of the milk therein.

t the Council Chamber, Osborne House, C. L. Peel.
Isle of Wight, the 4th day of February, 1879.

SHIPS' PASSENGERS.

I. *Complaints by Passengers.*

II. *Procedure on Complaints.*

III. *Granting Passage Brokers' and Emigrant Runners' Licences.*

I. *Complaints by Passengers.*

he sections of the Passengers' Acts, 1855 and 1863, showing to
t ships and voyages they extend, are set forth in *Note* 428a,
. I. p. 746.

18 & 19 Vict. c. 119; 26 & 27 Vict. c. 51.

18 & 19 Vict. c. 119.

Compensation if Passage not provided according to Contract.] 18 & 19 Vict. c. 119. s. 48, if any person by whom or on behalf any contract 175 has been made for a passage in any proceeding on any voyage to which this act extends, is at the of embarkation before six o'clock p.m. of the day of embark appointed in such contract, and, if required, paid the stipu passage money,—and if from any cause whatever other tha own refusal, neglect or default, or the prohibition of an emigr officer [under sects. 45, 47, pp. 1669, 1670], or the requiremen any order in council, such passenger is not received on board b that hour,—or if from any such cause any passenger who is rec on board shall not either obtain a passage in such ship to the at which he may have contracted to land, or with the imme members of his family included in such contract obtain a pa to the same port in some other equally eligible ship, to sail wi ten days from the day of embarkation, and in the meantime be subsistence money from the time and at the rate mentioned sect. 49, p. 1669],—such passenger, or any emigration officer on behalf, is entitled to recover either from the party to whom or whose account the same was paid, or (in case such contract made with the owner, charterer or master of such ship, or with a person acting on their behalf or by their authority) from owner, charterer or master or any of them, at the option of passenger or emigration officer, all monies paid for such pass and also such further sum, not exceeding £10 in respect of such passage, as in the opinion of the justices adjudicating on complaint, 176 is a reasonable compensation for the loss or inc venience occasioned by the loss of such passage.

Sect. 73.

Breach or Non-performance of Stipulations, in Contract Tic generally.] By 18 & 19 Vict, c. 119, s. 73, any question which m arise respecting the breach or non-performance of any of the stip lations in *any such contract ticket* 177 may at the option of a passenger or cabin passenger interested therein, be heard and dete mined in a summary way by the justices (see "II. *Procedure Complaints.*" p. 1671), and, if they find that a breach of contract h been committed, may award to the complainant such damages a costs as they think fit, not exceeding in any case the amount of passage money specified in the contract ticket and £20;—and such damages and costs be not at once paid, payment thereof

175 This section apparently applies to *any* contract or agreement f passage, whether that be in either of the forms provided for "contra tickets" (Schedules K and L) or not; and sect. 73, where heavier co pensation is necessary on the breach of any stipulation in the statut forms.

176 *Vide* Forms of Complaint, &c., Oke's "*Formulist*," 6th ed. p.

177 See sect. 71 for requirements of act as to giving contract tickets passengers.

reupon to be enforced, in the same manner as subsistence money, 18 & 19 Vict.
eturn of passenger money may be enforced;—provided that if c. 119.
passenger has obtained compensation or redress, under any of
other provisions of the act, he is not entitled to sue under this
tion for damages for the same matter or cause of complaint.

Subsistence in case of Detention.] By 18 & 19 Vict. c. 119, s. 49, Sect. 49.
any ship, whether a "passenger ship," 178 or otherwise, shall
actually put to sea and proceed on her intended voyage before
ee o'clock p.m. of the day next after the day of embarkation, the
ner, charterer or master of such ship, or his or their agent, or
y of them, at the option of such passenger or emigration officer,
to pay to every passenger entitled to a passage (or if such passen-
r shall be lodged and maintained in any establishment under the
perintendence of the emigration commissioners, then to the emi-
ation officer at the port of embarkation) subsistence money after
e rate of 1*s.* 6*d.* for each statute adult in respect of each day of delay
r the first ten days, and afterwards 3*s.* a day for each statute adult,
ntil the final departure of such ship on such voyage,—to be reco-
ered in manner hereinafter mentioned:—provided that if the
assengers be maintained on board in the same manner as if the
oyage had commenced, no such subsistence money shall be pay-
ble for the first two days next after embarkation; nor if they shall
e maintained shall such subsistence money be payable, if the ship
e unavoidably detained by wind or weather, or by any cause not
ttributable, in the opinion of the emigration officer, to the act or
default of the owner, charterer or master.

Return of Passage Money in case of Passengers relanded on Account of Sickness.] The emigration officer at any port is authorized by
18 & 19 Vict. c. 119, s. 45, to order passengers to be relanded for the Sect. 45.
purification of the ship by reason of sickness, &c. By sect. 46, any
passenger so relanded, who is not re-embarked and finally sails in
such ship, or any emigration officer on his behalf, is entitled to re-
cover, by summary process, the whole of the monies paid for his
passage, and that of the members of his family so relanded, from
the party to whom the same has been paid, or from the owner, char-
terer or master of such ship, or any of them, at the option of such
passenger or emigration officer. By 26 & 27 Vict. c. 51, s. 11, this
section is to be "applicable to cabin as well as to other passengers
landed on account of sickness;—and the passage of all cabin or
other passengers so landed may be recovered in the manner pointed
out in the said act, upon the delivery up of their contract tickets,
and notwithstanding that the ship may not have sailed:—provided
always, that in the case of cabin passengers so landed, one-half
only of their passage money shall be recoverable."

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178 Definition see *Note* 428 a, Vol. I. pp. 746—748.

18 & 19 Vict. c. 119, s. 47.

Subsistence Money in case of Passengers relanded on Accou Sickness.] By 18 & 19 Vict. c. 119, s. 47, the master of any " senger ship," from which the whole or any part of the passen shall be relanded on account of any of the reasons mentione sect. 45, is to pay to each passenger so relanded (or if he sha lodged and maintained in any hulk or establishment under the su intendence of the emigration commissioners, then to the emigr officer at the port) subsistence money at the rate of 1*s.* 6*d.* a for each statute adult until he shall be re-embarked or decli neglect to proceed, until his passage money, if recoverable u the 46th section of this act, is returned to him.

26 & 27 Vict. c. 51, s. 14.

Return of Passage Money and Subsistence in case of Wre Damage to Ship.] By 26 & 27 Vict. c. 51, s. 14 (which is a su tuted enactment for sect. 51 in the Act of 1855), "if any pass ship shall be wrecked or otherwise rendered unfit to proceed o intended voyage, while in any port of the United Kingdom,—or the commencement of the voyage, and if the passengers, or s them, shall be brought back to the U. K.,—or if any passenger shall put into any port or place in the U. K. in a damaged sta the master, charterer or owner shall, within forty-eight hours after, give to the nearest emigration officer, or in the absence of officer to the chief officer of customs, a written undertaking t following effect;—that is to say, if the ship shall have been wre or rendered unfit as aforesaid to proceed on her voyage, that owner, charterer or master thereof shall embark and convey the sengers in some other eligible ship, to sail within six weeks fr date thereof, to the port or place for which their passages respect had been previously taken; and if the ship shall have put port in a damaged state, then that she shall be made seaworthy fit in all respects for her intended voyage, and shall, within weeks from the date of such undertaking, sail again with her sengers;—in either of the above cases the owner, charterer or m shall, until the passengers proceed on their voyage, either lodge maintain them on board in the same manner as if they were a or pay to them subsistence money after the rate of 1*s.* 6*d.* a each statute adult, unless the passengers shall be maintained hulk or establishment under the superintendence of the emi commissioners mentioned in the said Passengers' Act, 18 which case the subsistence money shall be paid to the emi officer at such port or place. If the substituted ship or d ship, as the case may be, shall not sail within the time pres as aforesaid, or if default shall be made in any of the requir of this section, such passengers respectively or any emi officer on their behalf, shall be entitled to recover, by sum process, as in the said Passengers' Act, 1855, is menti monies which shall have been paid by or on account of such

gers or any of them for such passage, from the party to whom on whose account the same may have been paid, or from the ner, charterer or master of such ship, or any of them, at the ion of such passenger or emigration officer:—provided that the d emigration officer may, if he shall think it necessary, direct it the passengers shall be removed from such damaged 'pas- ıger ship,' at the expense of the master thereof." A penalty of : exceeding 40*s.*, or imprisonment not exceeding one calendar nth, is imposed by the same section on a passenger refusing to re the ship after such direction (Offence 46, Vol. I. p. 756). 179

26 & 27 Vict. c. 51.

II. *Procedure on Complaints.*

he time of proceeding is to be within twelve calendar months, vided for by 18 & 19 Vict. c. 119, s. 94;—who may prosecute, sect. 84;—the justices to adjudicate on complaints are to be o or more justices of the peace" (s. 85), or a police or endiary magistrate (s. 86);—the summons and the service of it provided for also by sect. 85. *Vide* the provisions set out in 429, Vol. I. p. 748. That section (s. 85) applies as well to recovery of penalties as to "all sums of money made recover- under this act, *by way of passage money, subsistence money, sensation, or damages, for the breach of any stipulation in any ract ticket.*" *Vide* Oke's "*Formulist,*" 6th edit. pp. 379, 380, Forms of Summons to Defendant or a Witness, and Adjudica- , and *vide Note* 430, Vol. I. p. 749.

18 & 19 Vict. c. 119.

III. *Granting Passage Brokers' and Emigration Runners' Licences.*

icensing Passage Brokers.] By 18 & 19 Vict. c. 119, s. 67, any on wishing to obtain a licence to act as a passage broker in ect of passages from the United Kingdom to any place out of ope, and not being in the Mediterranean Sea, is to make appli- n for the same to the justices at the petty sessions held for the ict or place in which such person has his place of business;— such justices (if they think fit) may grant a licence for that ose, according to the form in the Schedule (E), which is to con- e in force until the 31st day of December in the year in which granted, and for thirty-one days afterwards, unless sooner ited as herein mentioned:—and upon granting such licence, justices are to cause a notice thereof, according to the form in dule (F), to be transmitted forthwith by the post to the emi-

Sect. 67.

By 26 & 27 Vict. c. 51, s. 15, governors or consuls may send on ngers if the master of the ship fail to do so; and by sect. 16 the ses incurred in so doing, or under sect. 52 of the act of 1855, are to coverable from the owner, &c., as a debt due to the crown; but ngers forwarded by a governor or consul are not entitled to return sage money.

26 & 27 Vict. c. 51, s. 15.

18 & 18 Vict. c. 119.

gration commissioners at their office in *London*:—but no su licence is to be granted, unless the party applying shall show the satisfaction of the justices, that he has given bond to l Majesty, her heirs and successors, as required by sect. 66, and l deposited one part thereof at the office in London of the comm sioners, or is a sworn broker of the city of London, and has either case given notice to the commissioners fourteen clear da at least before of his intention to apply for the licence, the not being transmitted by the post to the office in London of the co missioners, and in the form contained in the Schedule (G). By t same section, if a passage broker is convicted of an offence again the act, the justice may adjudicate his licence to be forfeite [*Vide* the forms referred to in this section, Oke's "*Formulist*," 6 ed. pp. 954—956.] The acting as a passage broker without licence subjects the offender to a pecuniary penalty. See Offen 52, Vol. I. p. 756.

Sect. 76.

Licensing Emigrant Runners.] By 18 & 19 Vict. c. 119, s. 7 the justices of the peace at any petty sessions, held for the distri or place within which any person wishing to act as an "emigra runner" 180 is to carry on his business, may, upon the reco mendation in writing of an emigration officer, or of the chief co stable or other head officer of police of such district or place (bo not otherwise), grant, if they think fit, to such person a licen for that purpose according to the form in schedule (M), 181—an such runner shall, within 48 hours thereafter (under a penalty n exceeding 40*s.* for any default), lodge such licence with the neare emigration officer, who is to register the name and abode of suc runner in a book to be kept for that purpose, and number eac name registered in arithmetical progression, and supply to suc runner, on his paying a sum not exceeding 7*s.* for the same, a badg of the form and description approved by the emigration commis sioners. The licence to continue in force until the 31st day o December in the year in which it is granted, unless sooner revoke by a justice for any offence against this act, or for any other mis conduct committed by the holder of such licence. [See Vol. I. p. 756, Offences 55, &c. by runners.]

Sect. 3.

180 *Definition of "Emigrant Runner."*] By 18 & 19 Vict. c. 119. s. the expression "emigrant runner" is to signify every person other tha a licensed passage broker, or his *bonâ fide* salaried clerk, who within an port or place of shipping, or within five miles of the outer boundaries thereof, for hire or reward, or the expectation thereof, shall directly o indirectly conduct, solicit, influence or recommend any intending emigrant to or on behalf of any passage broker, owner, charterer or master of a ship, lodging-house, or tavern or shopkeeper, money changer, or other dealer or chapman, for any purpose connected with the preparations or arrangements for a passage, or shall give or pretend to give to any intending emigrant any information or assistance in any way relating to emigration.

181 *Vide* Form, No. 4, Oke's "*Formulist*," 6th ed. p. 955.

SPECIAL CONSTABLES.

See "*Constables (Special),*" *ante*, pp. 1352—1357.

STAMPS.

Search for Forged Dies, &c.] By "The Stamp Duties Manage- 33 & 34 Vict.
ıent Act, 1870," 33 & 34 Vict. c. 98, s. 19, "on information given c. 98.
efore any justice of the peace upon oath that there is just cause to
ıspect any person of being guilty of any of the offences aforesaid
.e. in sect. 18, forgery of stamps, indictable; see Offences 495,
ıte, p. 1174], such justice may, by a warrant under his hand,
ıuse every dwelling-house, room, workshop, outhouse or other
uilding or place belonging to or occupied by the suspected person,
r where he is suspected of being or having been in any way
ngaged or concerned in the commission of any such offence, or of
ccreting any forged die or stamp, or any machinery, implements,
r utensils applicable to the commission of any such offence, to be
earched,—and if upon such search any of the said several matters
nd things are found the same may be seized and carried away, in
rder that they may be produced in evidence against any offender,
nd shall afterwards, whether produced in evidence or not, by order
f the court or judge before whom such offender is tried, or in case
here shall be no such trial, by order of some justice of the peace,
e delivered over to the commissioners, to be defaced or destroyed
r otherwise disposed of as they may think fit."

Search Warrant for Stamps stolen or unlawfully obtained.] By
ect. 23 (1.) "Any justice of the peace having jurisdiction in the
lace where any stamps are known or supposed to be concealed or
leposited, may, upon reasonable suspicion that the same have been
tolen or fraudulently obtained, issue his warrant for the seizure
hereof, and for apprehending and bring before himself or any other
ustice within the same jurisdiction the person in whose possession
r custody such stamps may be found, to be dealt with according
o law:

(2.) If such person omits or refuses to account for the possession
f such stamps, or is unable satisfactorily to account for the posses-
ion thereof, or if it does not appear that the same were purchased
by him at the chief office or at one of the head offices, or from some
erson duly appointed to sell and distribute stamps or duly licensed
o deal in stamps, such stamps of which no account or no satisfac-
ory account is given, or which do not appear to have been so pur-
hased as aforesaid, shall be forfeited to her Majesty, her heirs or
uccessors, and shall be accordingly condemned by such justice and
delivered over to the commissioners:—and any stamps so condemned
shall be kept by the commissioners for the space of six months, and
afterwards cancelled and destroyed, or disposed of as the commis-
sioners think fit:

33 & 34 Vict. c. 98.

(3.) Provided, that if at any time within six months after su condemnation any person makes out to the satisfaction of the com missioners that any stamps so condemned were stolen or otherwi fraudulently obtained from him, and that the same were purchas by him at the chief office or one of the head offices, or from som person duly appointed to sell and distribute stamps, or duly licens to deal in stamps, such stamps may be delivered up to him."

SURETIES.

I. *Complaint for Sureties for the Peace.*
II. *Nature of the Recognizance and Commitment.*
III. *Discharge of Defendant.*
IV. *Complaint for Sureties for good Behaviour.*
V. *How Recognizances estreated.*
VI. *Surrender of Principal by Bail.*

I. *Complaint for Sureties for the Peace.*

Since the passing of the Summary Jurisdiction Act, 1879 (42 43 Vict. c. 49), a great alteration has been introduced into the la as affecting sureties to keep the peace or be of good behaviou Until the enactment of this statute, a defendant upon such a com plaint was not permitted to controvert the truth of the facts stat by the complainant; all that he was permitted to do being to sh that the complaint was preferred from malice alone, or explai any portions of it that may have been ambiguous, the simpl matter for the consideration of the justices being whether or no they believed the complainant upon his oath. By the prese enactment, this is altered, and applications for sureties to keep th peace or be of good behaviour are placed upon the same footing a any other application. Thus, by the above statute, it is enacted:

"25. *Procedure before Court of Summary Jurisdiction in case of Sureties to keep the peace.*] The power of a court of summary jurisdiction, upon complaint of any person, to adjudge a person to enter into a recognizance and find sureties to keep the peace or to be of good behaviour towards such first-mentioned person, shall be exercised by an order upon complaint, and the Summary Jurisdiction Acts shall apply accordingly, and the complainant and defendant and witnesses may be called and examined and cross-examined, and the complainant and defendant shall be subject to costs, as in the case of any other complaint.

"The court may order the defendant, in default of compliance with the order, to be imprisoned for a period not exceeding, if the court be a petty sessional court, six months, and if the court be a court of summary jurisdiction other than a petty sessional court, fourteen days."

By a subsequent section in the same statute provisions are enacted for enforcing the recognizances, thus sect. 9: "(2.) Where a recognizance conditioned to keep the peace or to be of good behaviour, or not to do or commit some act or thing, has been entered into by any person as principal or surety before a court of summary jurisdiction, that court or any other court of summary jurisdiction acting for the same county, borough, or place, upon proof of the conviction of the person bound as principal by such recognizance of any offence which is in law a breach of the condition of the same, may by conviction adjudge such recognizance to be forfeited, and adjudge the persons bound thereby, whether as principal or sureties, or any of such persons, to pay the sums for which they are respectively bound.

"(3.) Except where a person seeking to put in force a recognizance to keep the peace or to be of good behaviour, by notice in writing, requires such recognizance to be transmitted to a court of general or quarter sessions, the recognizances to which this section applies shall be dealt with in manner in this section mentioned, and notwithstanding any enactment to the contrary, shall not be transmitted nor shall the forfeiture thereof be certified, to general or quarter sessions.

"(4.) All sums paid in respect of a recognizance declared or adjudged by a court of summary jurisdiction in pursuance of this section to be forfeited shall be paid to the clerk of such court, and shall be paid and applied by him in the manner in which fines imposed by such court, in respect of which fines no special appropriation is made, are payable and applicable."

One justice, upon complaint on oath being made to him that from threats, &c. used within his jurisdiction towards the complainant, he fears another person will do him, his wife or child, some personal injury (not his property, except, indeed, threats to fire his house), &c. may issue his warrant or summons (the service of which should be personal), if he thinks sureties ought to be given. The complaint should be made shortly after the affray or cause of fear has arisen (*Dennis* v. *Lane*, 6 Mod. 131);—and it must not be a conditional or contingent threat on the complainant doing something which he had no right to do, or which it was not necessary for him to do in the course of his business; but if it is so necessary, then such a threat is cognizable by justices (*Reg.* v. *Mallinson*, 20 L. J. (N. S.) M. C. 33). Upon the party being brought before a justice, the complaint is read over to him, and he is asked, if he have any cause to show why he should not give the required sureties. A verbal complaint will do, and even when the party is before the justice on another charge. [*Vide* Mr. Justice Blackburn's observations in *Ex parte Davis*, 24 Law T., N. S. 547.] [*Vide* various forms of complaint, summons, warrant, &c., Nos. 1—12, Oke's "*Formulist*," pp. 956—958, 6th ed.]

II. *Nature of the Recognizance and Commitment.*

The recognizance may be either to appear at the sessions to answer the charge, and in the meantime to keep the peace; or for a definite period, as six months, a year, &c. (*Prickett* v. *Gratrex*, 15 L. J. (N. S.) M. C. 145); but the defendant cannot be convicted of an assault as well (if one was committed at the time) against the complainant's protest (*Reg.* v. *Deny*, 20 L. J. (N. S.) M. C. 189); but if a complaint for an assault is dismissed and the justices think from the evidence such a precaution is necessary, they may require the defendant to keep the peace (*Ex parte Davis*, 24 Law T., N. S. 547). If sureties are also required, and the defendant is not prepared with them, the case should be adjourned to admit of his procuring their attendance. The justice or justices should fix the amount of the recognisance, having regard to the condition in life of the parties and the circumstances of the case, or, as Williams, J., said, in *Prickett* v. *Gratrex*, *supra*, "the nature of the commitment should at all times bear some relation to the quantity and quality of the offence." As these cases are within the operation of the 11 & 12 Vict. c. 43, a minute of the order to enter into recognizance or find sureties should, before committal, be served on the defendant as required by sect. 17 (see Vol. I. p. 194). If sureties are found, it is usual, though not necessary, since the repeal of 3 Geo. 4, c. 46, s. 4, by 11 & 12 Vict. c. 42, s. 34, to give the parties bound notice of their recognizance, signed by the justice. In default of entering into the recognizance, or finding surety or sureties, or both, the party is committed to the common gaol [or house of correction, *Ex parte Aston*, 13 L. J. (N. S.) M. C. 52] for the time required, unless he in the meantime enter into recognizance with or without the required sureties [Forms of Recognizances, &c. and Commitment, Nos. 13—15, pp. 958, 959, Oke's "*Formulist*," 6th ed.];—but although it has been held, that it is not necessary to mention in the commitment the sum for which the sureties are to be bound (*Willes* v. *Bridger*, 2 B. & Ald. 278; *Prickett* v. *Gratrex*, *supra*), it is usually done in order that a visiting justice of the prison, or another, may take the recognizances in the amount adjudged. Infants and wives must find security by their friends, and not be bound themselves. The defendant is not entitled to copies of the depositions taken in these cases (*Ex parte Humpreys*, 19 L. J. (N. S.) M. C. 189). The Court of Queen's Bench cannot interfere to quash a recognizance (*Reg.* v. *Groves*, 8 L. T., N. S. 311).

III. *Discharge of Defendant.*

If after committal the defendant find sureties (which he can do before any one justice of the county, &c.) a liberate is granted.

conditional upon his entering into his own recognizance at the gaol, if the recognizance of the sureties are taken at a distance from it. [Form, No. 16, p. 959, Oke's "*Formulist*," 6th ed.]

IV. *Complaint for Sureties for Good Behaviour.*

Legal authorities are not agreed as to all the offences for which this surety may be required or how the statute is to be applied. Hawkins says (p. 496, 8th edit. by Curwood)—"It seems the better opinion, that no one ought to be bound to the good behaviour for any rash, quarrelsome or unmannerly words, unless they either directly tend to a breach of the peace or to scandalize the government, by abusing those who are entrusted by it with the administration of justice, or to deter an officer from doing his duty; and, therefore, it seems, that he who barely calls another rogue, or rascal, or teller of lies, drunkard, &c. ought not for such cause to be bound to the good behaviour." 183 The editor of the 29th edit. of Burn's Justice (pp. 1217, 1219), after citing the 34 Edw. 3, c. 1, the only statute on the subject, and the opinions of several old writers, says, "It is become difficult to define how far it shall extend, and where it shall stop," and that in applying it justices "cannot exercise too much caution and good advisement" (Id. 30th ed. p. 762). Later, another writer says, that it is advisable for justices, even at sessions, to refrain from acting under this statute of Edw. 3, "except in cases where a man is convicted of some offence directly against the peace, under circumstances from which it reasonably may be inferred that he will be again guilty of the same or the like offence, as soon as he has an opportunity, unless he be bound over to his good behaviour." (See, however, *Re Dunn*, 10 L. J. (N. S.) M. C. 29, and *Haylock* v. *Sparke*, 22 L. J. (N. S.) M. C. 72; 20 Law T. 276), in which latter case Lord Campbell, C. J., said,—"Undoubtedly it appears that mere insulting language, though *contra bonos mores*, is not such an offence in respect of which justices would be authorized in taking security and mainprize (*Bagg's Case*, 4 Rep.); but, regarding the authorities, beginning with 34 Edw. 1; Hawk. P. C. L. c. 23; Com. Dig. '*Forcible Entry*,' L. 25; Dalton's J. P. c. 126; *R.* v. *Shuckburgh*, 1 Wils. 29; *R.* v. *Wilkes*, 2 Wils. 151, we have come to the conclusion that cases of aggravated defamation may well require sureties for good behaviour."

34 Edw. 3, c. 1.

V. *How Recognizances Estreated.*

When taken by a Court of Summary Jurisdiction.] See *ante*, p. 170 (42 & 43 Vict. c. 49, s. 9 (2)).

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183 In the metropolis this is an offence punishable with a penalty. See 2 & 3 Vict. c. 47, s. 54, sub-s. 13; 2 & 3 Vict. c. xciv. s. 35, sub-s. 13.

16 & 17 Vict. c. 30.

At Quarter Sessions.] By 16 & 17 Vict. c. 30, s. 2, "where any recognizance to keep the peace or to be of good behaviour is entered into by any person, as principal or surety, before the court of general or quarter sessions of the peace of any county, riding, division, city, borough or place, &c.—it shall be lawful for any such court of general or quarter sessions of the peace as aforesaid, upon application made to such court, to declare such recognizance to be forfeited, upon proof of a conviction of the party bound by such recognizance of any offence which is in law a breach of the condition of the same;—184 and upon further proof that a notice in writing, signed by the person seeking to put such recognizance in force, has, seven clear days before the commencement of such sessions, been personally served upon or left at the usual place of abode of the party, or each of the parties (if more than one) who entered into such recognizances, that an application will be made to the said general or quarter sessions that the said recognizance shall be declared forfeited,—and if such recognizance shall be declared forfeited all such proceedings shall be had thereon as in the case of a recognizance forfeited at such court of general or quarter sessions,—and all the provisions of the act of the 3 Geo. 4, c. 46, and of the act of the 4 Geo. 4, c. 37, applicable to a recognizance so forfeited at such court shall apply to a recognizance which shall, upon such application and proof as hereinbefore mentioned, be declared to be forfeited. 185 [Forms, Nos. 17, 18, 19, Oke's "*Formulist*," 6th ed. p. 960.]

VI. *Surrender of Principal by Bail.*

It does not appear clear that the sureties in these cases can surrender their principal as in cases where the recognizance is for the party's appearance on an appointed day.

TELEGRAPHS.

26 & 27 Vict. c. 112.

Compensation for damage by works to be determined as under "Lands Clauses Act, 1845": (26 & 27 Vict. c. 112, s. 7). See "*Lands Clauses Act*," *ante*, p. 1446.

Differences between the company and bodies having control of streets, &c., as to depth of telegraph, to be determined by two justices (s. 10). The like as to alteration of streets (s. 15).

Expenses of making good streets opened by company, recoverable as a penalty (s. 19).

Disputes between the company and occupiers as to position of telegraphs above ground, to be determined by two justices (s. 22).

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184 Upon this point see 5 Burn's Justice, 29th ed. p. 1210; 30th ed. pp. 752, 762.

185 Process is issued to the sheriff to levy the amount, and in default of distress the persons bound are arrested (3 Geo. 4, c. 46, s. 2; 4 Geo. 4, c. 37, s. 1).

See 41 & 42 Vict. c. 76, s. 4, as to the settlement by police or tipendiary magistrate of differences relating to a street or public oad. 26 & 27 Vict. c. 112.

Expenses incurred by board of trade in doing works authorized, ecovered from the company as a penalty (s. 40).

Through Post Office.] See 32 & 33 Vict. c. 73, ss. 10, 11. 32 & 33 Vict. c. 73.

THAMES.

See title "*London*," *ante*, p. 1456.

TITHES AND RENT-CHARGES.

Recovery of Tithes from other Persons than Quakers.] By 7 & 8 Vill. 3, c. 6, ss. 1, 2, 6, small tithes, offerings, oblations and ompositions for small tithes, which have not been commuted for a ent-charge under the Tithe Commutation Act, 6 & 7 Will. 4, c. 71 for tithes commuted are recoverable by distress as rent in arrear, . 81), and in amount [not exceeding 10*l.*, 53 Geo. 3, c. 127, s. 4] re only recoverable (5 & 6 Will. 4, c. 74; 4 & 5 Vict. c. 36), before wo justices in petty session (neither of whom is patron of the hurch or chapel whence the said tithes arise, or in anywise nterested in such tithes).[186] If not paid within twenty days fter demand, upon the complaint of the rector [or under 7 Geo. 4, . 15, and 11 & 12 Vict. c. 43, s. 10, Vol. I. p. 138, his attorney or gent, or the lessee of the rector], made within two years after the ithes become due and payable (7 & 8 Will. 3, c. 6, s. 6).[187] The ustices make an order, and the amount is recovered by distress, if ot paid for the space of ten days and upwards (Id. s. 3); and in efault of distress, a commitment to prison for not exceeding three alendar months without hard labour, unless sooner paid (under 1 & 12 Vict. c. 43, s. 22, Vol. I. p. 228). [Forms, Nos. 1—4, . 961, Oke's "*Formulist*," 6th ed.] If the defendant insist on any rescription, &c., whereby he is freed from payment, the justices nust forbear to give judgment (7 & 8 Will. 3, c. 6, s. 8). An ppeal allowed (Id. s. 7; see *Reg.* v. *Hall*, 35 L. J. (N. S.) M. C. 251). 7 & 8 Will. 3, c. 6; 53 Geo. 3, c. 127.

Recovery of Tithes from Quakers only.] On nonpayment by Quakers of tithes [or any customary or other rights, dues or payments belonging to any church or chapel, which of right by law nd custom ought to be paid for the stipend or maintenance of any ninister or curate officiating in any church or chapel, 1 Geo. 1, tat. 2, c. 6, s. 2], in amount not exceeding 50*l.* (53 Geo. 3, c. 127,

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186 7 & 8 Will. 3, c. 6, s. 1. By 7 Geo. 4, c. 15, in cities and towns where the justices are patrons of the living, the matter may be determined by two justices of the adjoining county, riding or division.

187 The 7 & 8 Will. 3, c. 6, does not extend to tithes in the city of London or the liberties thereof, or in any other city or town corporate where the same are settled by any act of parliament (s. 5).

7 & 8 Will. 3, c. 6; 53 Geo. 3, c. 127.

s. 6), any [one, 53 Geo. 3, c. 127, s. 4] justice, on complaint of the parson, vicar, &c., may summon the parties to appear before two justices [Id.], neither of which justices is the patron of the church or chapel, or anywise interested in such tithes (7 & 8 Will. 3, c. 34, s. 4), and the amount, with costs not exceeding 10*s*. (s. 5), 188 is, upon an order, recovered by distress (s. 6); in default of distress, imprisonment not exceeding three calendar months, unless sooner paid (11 & 12 Vict. c. 43, s. 22, Vol. I. p. 228). It is only in this way that such tithes can be recovered (5 & 6 Will. 4, c. 74; 4 & 5 Vict. c. 36). An appeal is allowed to the next quarter sessions (7 & 8 Will. 3, c. 34, s. 7). *Vide* 6 & 7 Will. 4, c. 71, s. 84, as to recovery of rent-charges from Quakers.

5 & 6 Vict. c. 54.

Contribution to a Rent-charge.] By 5 & 6 Vict. c. 54, s. 16, in case any land charged with one amount of rent-charge shall belong to two or more landowners in several portions, and the owner of any one of such portions, or his tenant, has paid the whole of such rent-charge, or any portion thereof greater than appears to him to be his just proportion, and contribution thereto is refused or neglected to be made by any other of the landowners, or his tenant, after a demand in writing, any justice acting for the county, &c. in which the land is situated, upon the complaint of any such landowner, or his tenant or agent [made within six calendar months, 11 & 12 Vict. c. 43, s. 11, Vol. I. p. 135], may summon the owner so refusing or neglecting to make contribution, or his tenant, to appear before any two or more such justices, who, upon proof of the demand and of service of the summons, whether or not the party summoned shall appear, are to examine into the merits of the complaint, and determine the just proportion of the rent-charge so paid, which ought to be contributed by the landowner of such other portion of the said land, and by *order* are to direct the payment by him of what shall in their judgment be due and payable in respect of such liability to contribution, with costs;—and thereupon the complainant may enforce payment of the amount of contribution and costs by distress and entry [*Vide* 6 & 7 Will. 4, c. 71, ss. 81—85; and 23 & 24 Vict. c. 93, ss. 29, 30], but with the restriction to two years' arrears. The demand must be served upon any person occupying or residing on the land, or in case no person shall be found thereon, then affixing same on some conspicuous place on the land (s. 17). [Forms of Complaint, Summons and Order, Nos. 5—7, p. 962, Oke's "*Formulist*," 6th ed.]

23 & 24 Vict. c. 93.

Restoration of Instrument of Apportionment to proper Custody.] By 23 & 24 Vict. c. 93, s. 28, whenever any person, other than the

188 This limitation may, doubtless, be treated as repealed by 11 & 12 Vict. c. 43, s. 36, Vol. I. p. 127, *Note* 2, and in that case, sect. 18, Id. pp. 195, 196, applies to these costs.

rson legally entitled [*i.e.* the incumbent, churchwarden or church- ardens of the parish, or other persons approved by tithe com- issioners, 6 & 7 Will. 4, c. 71, s. 64], has possession of the aled copy of any confirmed instrument of apportionment, any ro justices for the county, &c. within which the lands are tuate, upon the application of any person interested in the lands rent-charge, and upon fourteen days' notice in writing of such plication to the person in whose custody such copy is, may hear d determine such application; 189—and upon hearing such plication, the justices may order such copy to be removed from e custody of the person holding the same, and to be deposited such other custody as they, having reference to the security and e preservation of such copy, and to the convenience of the parties terested therein, may think fit,—and may impose a fine, not ceeding 20*s.* for each day that any such copy is retained contrary the terms of such order, upon the person so retaining it,—and ay make such further order concerning the notice to be given of ch removal and deposit, and concerning the costs of such appli- tion, and the said fine, or of any opposition thereto, as they may ink reasonable. [Forms of Notice, Complaint, Summons and rder, Oke's "*Formulist*," 6th ed. pp. 963, 964.]

23 & 24 Vict. c. 93.

TOWNS IMPROVEMENT. 190

"The Towns Improvement Clauses Act, 1847," 10 & 11 Vict. . 34, the extent of which is shown in *Note* **450**, Vol. I. pp. 768, 69, provides for various matters being heard and determined before ustices, viz. :—

10 & 11 Vict. c. 34.

The mode of determining questions of compensation with regard lands purchased or taken is to be the same as under 8 & 9 Vict. . 18 (title "*Lands Clauses Act*," *ante*, p. 1446) (10 & 11 Vict. c. 34, . 19).

Corrections of errors and omissions in plans and schedule to pecial act, by two justices (s. 20).

Damage done to lands by reason of altering the levels of streets, tc., in case of dispute between commissioners and the owners r occupiers, to be determined in the same manner as questions f compensation for lands taken or purchased (s. 21).

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189 This section being rather obscurely worded, it is recommended hat the complaint should be made before the expiration of the notice, nd that the summons should be returnable on the same day as the notice tates the application will be made to the justices. See *Reg.* v. *Sayers nd Thackwell*, 3 Law T., N. S. 405.

190 The provisions of this act, 10 & 11 Vict. c. 34, are incorporated with the Local Government Act, 21 & 22 Vict. c. 98, by sect. 45 of the latter, and, therefore, the local board will be the commissioners in these districts.

10 & 11 Vict. c. 34.

Expenses of demolishing, &c. buildings, cellars, &c., mad without the consent of the commissioners, to be recovered a damages (s. 31).

Expenses of altering buildings, &c. erected without notice, c contrary to the provisions of the act, to be recovered as damag (s. 40).

Expenses of repairing, altering, &c. drains, privies and cesspool neglected to be done after notice to the owners, recoverable a damages (s. 44).

Expenses of altering drains, &c. constructed contrary to th directions of the commissioners, recoverable as damages (s. 46).

The commissioners are liable to be indicted, like inhabitants, fo neglecting to repair their highways (s. 49).

Expenses of numbering houses, omitted to be done by occupiers recoverable as damages (s. 65); commissioners to make compen- sation to owner for damage for setting houses back (s. 68).

Expenses of removing projections to houses, &c. not removed after notice, recoverable as damages (s. 69); commissioners to make compensation for damage by removal of projections (s. 70).

Expense of altering doors opening outwards, not altered after notice, recoverable as damages (s. 71).

Two justices may order ruinous or dangerous buildings to be taken down or secured, &c. by the owners, &c. (s. 75), and any justice may issue his distress warrant for the expenses (s. 76); compensation for houses, &c. taken where owner cannot be found (s. 77). [Forms, Nos. 1—7, Oke's "*Formulist*," 6th ed. pp. 965—966.]

Expenses of repairing dangerous buildings or holes near streets, recoverable as damages from the owner (s. 83).

Parties aggrieved by orders of commissioners, as to new levels or sewers, may appeal to quarter sessions, entering into a recognizance before a justice to try appeal (s. 86).

Expenses of removal of stagnant water in cellar, &c. recoverable from the occupier or owner as damages (s. 99.)

Expenses of whitewashing and purifying houses, not done after notice, recoverable from the occupier or owner as damages (s. 102)

Two justices may order certain nuisances and offensive trades to be abated (s. 104).

Expenses of altering public buildings, not approved of by the commissioners, to be recovered as provided with respect to ruinous or dangerous buildings (s. 110).

Justices may suspend licences for slaughtering-houses, in addition to penalty on conviction (s. 129).

Expenses incurred by the commissioners in executing private improvements for owners of buildings, recoverable as damages, or by action (s. 149, and see s. 150).

n appeal is given to ratepayers against rates, whose names are 10 & 11 Vict.
rted after rate is made to the justices at special sessions or c. 34.
rter sessions (s. 180, and see s. 176).

ersons aggrieved by rates on the ground of inequality, unfair-
s, or incorrectness in the valuation of their premises, may
eal to the justices at the special sessions holden for the district
r seven days' notice (s. 185), which provision is similar to that
he 6 & 7 Will. 4, c. 96 (*ante*, p. 1308, title "*Poor*"), and see
s. 188—190.

he recovery of rates may be by distress warrant of any one
tice (ss. 191—197). Form, No. 8, p. 966, Oke's "*Formulist*,"
ed.]

Recovery of Damages.] Damages are to be recovered as under
8 & 9 Vict. c. 20, which is incorporated (s. 210), before justices,
l not by action (*Mayor of Blackburn* v. *Parkinson*, 28 L. J.
. S.) M. C. 7; 32 Law T. 91; *Parkinson* v. *Mayor, &c. of*
ckburn, 33 Law T. 132. See title "*Railways*," *ante*.

TRADES UNIONS.

"The Trade Union Act, 1871" (34 & 35 Vict. c. 31), intituled 34 & 35 Vict.
n Act to amend the Law relating to Trades Unions" contains c. 31.
whole law upon the subject of trades' unions. The offences
relation to trades unions are in Vol. I. pp. 776—778. Certain
these unions may now be registered with the registrar of friendly
ieties, the provisions of the act as to which we will give in
tenso under the same divisions as in the statute:—

I. *Criminal Provisions.*
II. *Registered Trade Unions.*
III. *Registry of Trade Union.*

I. *Criminal Provisions.*

Trade Union not Criminal.] Sect. 2. "The purposes of any Sect. 2.
ade union 191 shall not, by reason merely that they are in

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191 *Definition of "Trade Union."*] By sect. 23, "the term 'trade Sect. 23.
ion' means such combination, whether temporary or permanent, for
gulating the relations between workmen and masters, or between work-
en and workmen, or between masters and masters, or for imposing
strictive conditions on the conduct of any trade or business as would, if
is act had not passed, have been deemed to have been an unlawful com-
nation by reason of some one or more of its purposes being in restraint
trade:—provided that this act shall not affect—

1. Any agreement between partners as to their own business;
2. Any agreement between an employer and those employed by him as to such employment;
3. Any agreement in consideration of the sale of the goodwill of a business or of instruction in any profession, trade or handicraft."

34 & 35 Vict. c. 31.

restraint of trade, be deemed to be unlawful, so as to render member of such trade union liable to criminal prosecution for spiracy or otherwise.

Sect. 3.

Trade Union not unlawful for Civil Purposes.] Sect. 3. " purposes of any trade union shall not, by reason merely that are in restraint of trade, be unlawful so as to render voi voidable any agreement or trust."

Sect. 4.

Trade Union Contracts, when not enforceable.] Sect. 4. "Not in this act shall enable any court to entertain any legal proceed instituted with the object of directly enforcing or recove damages for the breach of any of the following agreeme namely,—

1. Any agreement between members of a trade union as s concerning the conditions on which any members for time being of such trade union shall or shall not sell t goods, transact business, employ, or be employed:
2. Any agreement for the payment by any person of any s scription or penalty to a trade union:
3. Any agreement for the application of the funds of a tr union,—
   (*a.*) To provide benefits to members; or,
   (*b.*) To furnish contributions to any employer or workm not a member of such trade union, in considerat of such employer or workman acting in conform with the rules or resolutions of such trade union:
   (*c.*) To discharge any fine imposed upon any person sentence of a court of justice; or,
4. Any agreement made between one trade union and anothe or
5. Any bond to secure the performance of any of the abov mentioned agreements.

But nothing in this section shall be deemed to constitute any the above-mentioned agreements unlawful."

Sect. 5.

Provisions of 18 & 19 *Vict. c.* 63; 30 & 31 *Vict. c.* 117; 25 & 2 *Vict. c.* 89, *&c., not to apply to Trade Unions.*] Sect. 5. "The fol lowing acts, that is to say,—

(1.) 'The Friendly Societies Acts, 1855 and 1858,' and the a amending the same;
(2.) 'The Industrial and Provident Societies Act, 1867,' and a act amending the same; and
(3.) 'The Companies Acts, 1862 and 1867,'

shall not apply to any trade union, and the registration of an trade union under any of the said acts shall be void, and the de posit of the rules of any trade union made under 'The Friendly Societies Acts, 1855 and 1858,' and the acts amending the same before the passing of this act, shall cease to be of any effect."

II. *Registered Trade Unions.*

Registry of Trade Unions.] Sect. 6. "Any seven or more mem- 34 & 35 Vict.
ers of a trade union may by subscribing their names to the rules c. 31.
the union, and otherwise complying with the provisions of this Sect. 6.
t with respect to registry, register such trade union under this
t, provided that if any one of the purposes of such trade union
unlawful such registration shall be void."

Buildings for Trade Unions may be purchased or leased.] Sect. 7. Sect. 7.
It shall be lawful for any trade union registered under this act to
urchase or take upon lease in the names of the trustees for the
me being of such union any land not exceeding one acre, and to
ell, exchange, mortgage, or let the same, and no purchaser,
ssignee, mortgagee, or tenant shall be bound to inquire whether
he trustees have authority for any sale, exchange, mortgage, or
etting, and the receipt of the trustees shall be a discharge for the
oney arising therefrom;—and for the purpose of this section
very branch of a trade union shall be considered a distinct union."

Property of the Trade Unions vested in Trustees.] Sect. 8. "All Sect. 8.
eal and personal estate whatsoever belonging to any trade union
egistered under this act shall be vested in the trustees for the time
eing of the trade union appointed as provided by this act, for the
se and benefit of such trade union and the members thereof, and
he real or personal estate of any branch of a trade union shall be
vested in the trustees of such branch, and be under the control of
such trustees, their respective executors or administrators, accord-
ng to their respective claims and interests, and upon the death or
removal of any such trustees the same shall vest in the succeeding
trustees for the same estate and interest as the former trustees had
therein, and subject to the same trusts, without any conveyance or
assignment whatsoever, save and except in the case of stocks and
securities in the public funds of Great Britain and Ireland, which
shall be transferred into the names of such new trustees;—and in
all actions, or suits, or indictments, or summary proceedings before
any court of summary jurisdiction, touching or concerning any
such property, the same shall be stated to be the property of the
person or persons for the time being holding the said office of
trustee, in their proper names, as trustees of such trade union,
without any further description."

Actions, &c. by or against Trustees, &c.] Sect. 9. "The trustees Sect. 9.
of any trade union registered under this act, or any other officer of
such trade union who may be authorized so to do by the rules thereof,
are hereby empowered to bring or defend, or cause to be brought
or defended, any action, suit, prosecution, or complaint in any
court of law or equity, touching or concerning the property, right,
or claim to property of the trade union; and shall and may, in all

34 & 35 Vict. c. 31.

cases concerning the real or personal property of such trade un sue and be sued, plead and be impleaded, in any court of lav equity, in their proper names, without other description than title of their office;—and no such action, suit, prosecution, or c plaint shall be discontinued or shall abate by the death or rem from office of such persons or any of them, but the same shall may be proceeded in by their successor or successors as if s death, resignation, or removal had not taken place;—and s successor shall pay or receive the like costs as if the action, s prosecution, or complaint had been commenced in their names the benefit of or to be reimbursed from the funds of such tr union, and the summons to be issued to such trustee or other offi may be served by leaving the same at the registered office of trade union."

Sect. 10.

Limitation of Responsibility of Trustees.] Sect. 10. "A tras of any trade union registered under this act shall not be liable make good any deficiency which may arise or happen in the fu of such trade union, but shall be liable only for the moneys wh shall be actually received by him on account of such tra union."

Sect. 11.

Treasurers, &c. to account.] Sect. 11. "Every treasurer or oth officer of a trade union registered under this act, at such times by the rules of such trade union he should render such account hereinafter mentioned, or upon being required so to do, shall rend to the trustees of the trade union, or to the members of such tra union, at a meeting of the trade union, a just and true account all moneys received and paid by him since he last rendered the li account and of the balance then remaining in his hands, and of s bonds or securities of such trade union, which account the said truste shall cause to be audited by some fit and proper person or persons b them to be appointed; and such treasurer, if thereunto required, upo the said account being audited, shall forthwith hand over to th said trustees the balance which on such audit appears to be du from him, and shall also, if required, hand over to such trustees a securities and effects, books, papers, and property of the said trad union in his hands or custody;—and if he fail to do so the trustee of the said trade union may sue such treasurer in any competen court for the balance appearing to have been due from him upo the account last rendered by him, and for all the moneys sin received by him on account of the said trade union, and for th securities and effects, books, papers, and property in his hand or custody, leaving him to set off in such action the sums if any, which he may have since paid on account of the said trad union;—and in such action the said trustees shall be entitled to recover their full costs of suit, to be taxed as between attorney and client."

III. *Registry of Trade Union.*

Regulations for Registry.] Sect. 13. "With respect to the registry, under this act, of a trade union, and of the rules thereof, the following provisions shall have effect: 34 & 35 Vict. c. 31. Sect. 13.

(1.) An application to register the trade union and printed copies of the rules, together with a list of the titles and names of the officers, shall be sent to the registrar under this act [*i. e.* the registrar of friendly societies, s. 17]:

(2.) The registrar, upon being satisfied that the trade union has complied with the regulations respecting registry in force under this act, shall register such trade union and such rules:

(3.) No trade union shall be registered under a name identical with that by which any other existing trade union has been registered, or so nearly resembling such name as to be likely to deceive the members of the public:

(4.) Where a trade union applying to be registered has been in operation for more than a year before the date of such application, there shall be delivered to the registrar before the registry thereof a general statement of the receipt, funds, effects, and expenditure of such trade union in the same form, and showing the same particulars as if it were the annual general statement required as hereinafter mentioned to be transmitted annually to the registrar:

(5.) The registrar upon registering such trade union shall issue a certificate of registry, which certificate, unless proved to have been withdrawn or cancelled, shall be conclusive evidence that the regulations of this act with respect to registry have been complied with:

(6.) One of her Majesty's principal secretaries of state may from time to time make regulations respecting registry under this act, and respecting the seal (if any) to be used for the purposes of such registry, and the forms to be used for such registry, and the inspection of documents kept by the registrar under this act, and respecting the fees, if any, to be paid on registry, not exceeding the fees specified in the second schedule to this act, 193 and generally for carrying this act into effect."

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193 The second schedule is as follows:—

Maximum Fees.	£	*s.*	*d.*
For registering trade union	1	0	0
For registering alterations in rules	0	10	0
For inspection of documents	0	2	6

38 & 39 Vict. c. 21.

Rules of Registered Trade Unions.] Sect. 14. "With respect the rules of a trade union registered under this act, the followi provisions shall have effect:

1. The rules of every such trade union shall contain provisio in respect of the several matters mentioned in the f schedule to this act:

2. A copy of the rules shall be delivered by the trade union every person on demand on payment of a sum not exceeding one shilling." [Circulating false copies of the rul &c. is an indictable misdemeanor by sect. 18; see Offenc 501, 502, ante, p. 1175.]

The first schedule here referred to is as follows:—

Matters to be provided for by the Rules of Trade Unions Registere under this Act.

See 13 & 14 Vict. c. 43, s. 15.

1. The name of the trade union and place of meeting for the bus ness of the trade union.

2. The whole of the objects for which the trade union is to b established, the purposes for which the funds thereof shall be ap plicable, and the conditions under which any member may becom entitled to any benefit assured thereby, and the fines and forfeiture to be imposed on any member of such trade union.

3. The manner of making, altering, amending, and rescinding rules.

4. A provision for the appointment and removal of a genera committee of management, of a trustee or trustees, treasurer, an other officers.

5. A provision for the investment of the funds, and for an annual or periodical audit of accounts.

6. The inspection of the books and names of members of th trade union by every person having an interest in the funds of the trade union.

TRAMWAYS.

33 & 34 Vict. c. 78.

By "The Tramways Act, 1870," 33 & 34 Vict. c. 78, the application and extent of which is shown in *Note* 454, Vol. I. pp. 780, 781, the following matters are determinable before justices:—

Disputes as to Amount of Toll.] By sect. 39, "If any dispute arise concerning the amount of tolls due to the promoters or to their lessees from any licensee, or concerning the charges occasioned by any detention or sale of any carriage under the provisions herein contained, the same shall be settled in England by two justices . . . . . ,—and it shall be lawful for the promoters or their lessees in the meanwhile to detain the carriage, or (if the case so require) the proceeds of the sale thereof."

To ascertain Amount due from Licensee for Damage by their Servants.] By sect. 40, "Every licensee shall be answerable for any

respass or damage done by his carriages or horses, or by any of the servants or persons employed by him, to or upon the tramway, or to or upon the property of any other person, and, without prejudice to the right of action against the licensee or any other person, *every such* servant or other person may lawfully be convicted of such respass or damage in England before *two justices* . . . . either by the confession of the party offending or by the oath of some credible witness;—and upon such conviction every such licensee shall pay to the promoters, lessees, or persons injured, as the case may be, the damage, to be ascertained by such justices, so that the same do not exceed fifty pounds." 33 & 34 Vict. c. 78.

TURNPIKE ROADS. 194

Recovery of Possession of Toll Houses.] By 4 Geo. 4, c. 95, s. 49, on the death, discharge or absconding of any collector or receiver of tolls, or his wife, widow or children, refusing to quit for three days after demand in writing, one justice may by warrant order a constable to remove the persons from the toll house or building, or weighing machine, and their goods, and put the trustees or their officer in possession. [Forms 1—3, pp. 967, 968, Oke's "*Formulist*," 6th ed.] Sect. 59 is a similar clause in reference to lessees of tolls refusing to perform their agreement or pay rent, or lease becoming void. 4 Geo. 4, c. 95.

Officer not Accounting.] Officers appointed by trustees to account for monies received and paid, and on refusal or neglect to deliver up accounts, vouchers, &c., within ten days after being required, one justice on complaint may summon such officer, and hear and determine the matter in a summary way;—and if any monies shall be in the hands of such officer, the same may be levied by distress and sale of the goods of such officer, and if no distress, or he should not appear, or appearing shall refuse or neglect to give or to deliver to such justice an account of his receipts and payments, and all vouchers, books, &c., such justices may and shall commit him to the common gaol or house of correction until he shall have paid or compounded with the trustees for the monies so received;—or, if committed for not delivering up accounts, books, &c., then until he shall have so delivered the same, or otherwise satisfied the trustees; but if committed for want of distress, then to be detained for no longer than six calendar months. [Forms of Complaint, Distress Warrant, Commitments, &c., Nos. 4—9, Oke's "*Formulist*," pp. 968, 969, 6th ed.] 4 Geo. 4, c. 95, s. 47; 9 Geo. 4, c. 77, s. 14.

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194 In South Wales, the turnpike roads are managed by county roads boards under the acts 7 & 8 Vict. c. 91; 8 & 9 Vict. c. 61, and 10 & 11 Vict. c. 27.

3 Geo. 4, c. 126.

Purchasing Lands, &c.] One justice may ascertain and settle amount of expenses of jury and witnesses on inquisition to assess value of land required for road (3 Geo. 4, c. 126, s. 87).

Procuring Materials, &c.] Differences as to the damages done by surveyor in getting materials from common or waste lands, or going over inclosed lands, to be settled by two justices (3 Geo. 4, c. 126, s. 97). Two or more justices may make order for materials to be taken from enclosed land (s. 98), which is recovered by distress (4 Geo. 4, c. 95, s. 71). [Forms, Nos. 14—16, pp. 972, 974, Oke's "*Formulist*," 6th ed.] Differences as to value of land used as repositories for stone, gravel, &c., to be settled by two justices (3 Geo. 4, c. 126, s. 102). Two or more justices to settle differences or damage between owner of ground through which a temporary road made and the trustees (s. 111). [Form of Order, &c., No. 10, Oke's "*Formulist*," 6th ed. p. 969.] Expenses of repairing gutters, drains, &c., in towns to be defrayed equally between the trustees and inhabitants, and two justices to apportion the amount to be paid by each (s. 115).

Watercourses, &c.] One or more justices to settle charges of removing filth, &c., on road, on turning, &c., watercourses, &c., after seven days' notice given to owner or occupier by surveyor, the amount being recoverable as penalties (s. 114). [See, as to second, Offences 95, 96, Vol. I. p. 806.]

Cutting Hedges.] One justice may order hedges to be cut and trees lopped which obstruct or are prejudicial to the road, if not done so by occupier within ten days after notice given by surveyor (s. 116). [Form No. 12, p. 971, Oke's "*Formulist*," 6th ed. See Offence 97, Vol. I. p. 806.]

4 Geo. 4, c. 95.

Damage by making Drains, &c.] Two or more justices may settle satisfaction to owner for making drains through lands contiguous to the road (4 Geo. 4, c. 95, s. 67). Two justices to determine as to the repair of new road made in lieu of old road (s. 68).

Tolls.] A justice may determine disputes as to tolls or charges of distress made for same, and award costs to parties (3 Geo. 4, c. 126, s. 40). [Forms, Nos. 16, 17, Oke's "*Formulist*," 6th ed. pp. 974, 975.]

County Road Rates in South Wales are recovered as county rates (10 & 11 Vict. c. 72, s. 2).

Roads out of Repair.] See *ante*, title "*Highways*," pp. 1220, 1221, 1426—1427.

Application of Highway Rate towards Repair of Turnpike Roads.] See *ante*, pp. 1220, 1221.

Railways interfering with Roads.] See 8 & 9 Vict. c. 20, tit. "*Railways*," *ante*, pp. 1573, 1577.

Road in two Counties, becoming a Highway, in Repair.] See 33 & 34 Vict. c. 73, s. 13.

Tramways using Road.] See 33 & 34 Vict. c. 78, s. 58, as to composition.

VACCINATION.

Justices' Order for Vaccination of Child.] By "The Vaccination Act of 1867" (30 & 31 Vict. c. 84) (which with the Act of 1871 is referred to in *Note* **465**, Vol. I. pp. 810, 811), sect. 31, a justice, on the information of the registrar of births, &c. that a child under 14 years of age has not been successfully vaccinated, and the parent disregards the notice to have it done, may summon the parent to appear with the child and make an order directing it to be vaccinated within a certain time (see *Note* **468**, Vol. I. pp. 814, 815). The acts provide a penalty for disobedience of the order as well as for not producing the child, Offences 6, 7, Vol. I. p. 814. [Forms of Information, Summons and Order, Nos. 8—10, Oke's "*Formulist*," 6th ed. p. 417.]

30 & 31 Vict. c. 84; 34 & 35 Vict. c. 98.

VAGRANTS.

Search Warrant for.] By 5 Geo. 4, c. 83, s. 13, any justice, upon information on oath that any person described in the act as an offender (see Vol. I. pp. 740—748) is or is reasonably suspected to be harboured or concealed in any house kept or purporting to be kept for the reception, lodging, or entertainment of travellers, may, by warrant, authorize any constable or other person or persons to enter at any time into such house, and to apprehend and bring before him or any other justice every such offender as shall be found therein, to be dealt with as directed by the act. [Forms, Nos. 12, 13, pp. 421, 422, Oke's "*Formulist*," 6th ed.]

5 Geo. 4, c. 83.

VESTRIES.

Convening Meetings, &c. generally.] The acts are 58 Geo. 3, c. 69; 1 Vict. c. 45; 13 & 14 Vict. c. 57, s. 1; 16 & 17 Vict. c. 45; 59 Geo. 3, c. 85.

Appointment of Vestry Clerk.] 13 & 14 Vict. c. 57. [Forms, Oke's "*Formulist*," 6th ed. pp. 975, 976.]

Vestrymen and Auditors.] 1 & 2 Will. 4, c. 60.

Select Vestries.] Appointment of select vestrymen by one justice. (59 Geo. 3, c. 12, s. 1.)

VOLUNTEER FORCE.

"The Volunteer Act, 1863," 26 & 27 Vict. c. 65 [passed 21st July, 1863], repealed by sect. 51 the previous enactments; but this repeal was not to "affect the past operation of any such enactment, or anything already done, or any right, title, obligation or liability already accrued thereunder, or any remedy or proceeding respecting the same;" and by sect. 13, the provisions of this act are to apply to

26 & 27 Vict. c. 65; 32 & 33 Vict. c. 81.

26 & 27 Vict. c. 65; 32 & 33 Vict. c. 81.

every corps already formed, "without prejudice to anything already done in relation to or by any such corps." It is amended by "The Volunteer Act, 1869," 32 & 33 Vict. c. 81, and they may be cited together as the Volunteer Acts, 1863 and 1869.

Oath to be taken by Officers and Volunteers.] By 26 & 27 Vict. c. 65, s. 6, every officer, on receiving his commission, and every volunteer on his enrolment in the muster roll of his corps, or in either case as soon afterwards as may be, is to take the oath in the schedule, to be administered by the lieutenant of the county, a deputy lieutenant, a justice for the county, or an officer of the corps who has taken such oath, viz.:—

"I, A. B., do sincerely promise and swear, that I will be faithful and bear true allegiance to her Majesty Queen Victoria, and that I will faithfully serve her Majesty in Great Britain for the defence of the same against all her enemies and opposers whatever according to the conditions of my service."

"(*The name of the successor of her Majesty Queen Victoria for the time being, with proper words of reference thereto, to be substituted as occasion requires.*)"

[Form of Certificate of Oath having been taken, Oke's "*Formulist*," 6th ed. p. 978, No. 2.]

Appeal to Justices by Volunteer who desires to be struck off Muster Roll.] By 26 & 27 Vict. c. 65, s. 7, "any volunteer may, except when on actual military service, quit his corps, on complying with the following conditions, namely,—

(1.) Giving to the commanding officer of his corps fourteen days' notice in writing of his intention to quit the corps:

(2.) Delivering up in good order, fair wear and tear only excepted, all arms, clothing and appointments, being public property or property of his corps, issued to him:

(3.) Paying all money due or becoming due by him, under the rules of his corps, either before or at the time or by reason of his quitting it:

And thereupon he shall be struck out of the muster roll of the corps by the commanding officer. If any volunteer give such notice, and the commanding officer refuses to strike him out of the muster roll, and the volunteer considers himself aggrieved thereby, the volunteer may appeal to two justices of the peace for the county to which the corps belongs, usually acting within the petty sessional division in which the head quarters of the corps are situate, and not being members of the corps, who shall hear and determine the appeal, and may for the purposes thereof administer oaths and examine any person as a witness; 195—and if it appears to such justices that the

195 By 32 & 33 Vict. c. 81, s. 6, the commanding officer of any corps or administrative regiment may appear before justices by the adjutant or serjeant-major of the corps or regiment, or any of the staff of the corps or regiment authorized in writing under the hand of the commanding officer

arms, clothing and appointments issued to the volunteer, being public property or property of his corps, have been delivered up in good order (fair wear and tear only excepted), or that he has paid or is ready to pay sufficient compensation for any damage that such articles may have sustained, and that all money due or becoming due by him under the rules of his corps, either before or at the time or by reason of his quitting it, has been paid, such justices may order the commanding officer forthwith to strike such volunteer out of the muster roll of his corps, and their determination shall be binding on all persons." [Forms of Summons and Order, Nos. 3, 4, Oke's "*Formulist*," 6th ed. pp. 978, 979.]

26 & 27 Vict. c. 65; 32 & 33 Vict. c. 81.

Recovery of Subscriptions or Fines from Member of Corps.] By 26 & 27 Vict. c. 65, s. 27, "if any person belonging or having belonged to a volunteer corps or administrative regiment, neglects or refuses to pay any money subscribed or undertaken to be paid by him towards any of the funds or expenses of such corps or regiment, or due under the rules of such corps, and actually payable by him, or to pay any fine incurred by him under the rules of such corps,—such money or fine shall (without prejudice to any other remedy) be recoverable from him, with costs, at any time within twelve months after the same becomes due and payable, as a penalty under this act is recoverable,—and when recovered shall be applied as part of the general fund of the corps or regiment." By sect. 48, money or fines made recoverable as a penalty is recoverable before two or more justices having jurisdiction where the offence is committed or where the offender happens to be, in manner directed by the 11 & 12 Vict. c. 43. The person to sue for and recover current subscriptions, arrears of subscriptions, and other money due to the corps or regiment, is the commanding officer, in whom they and all lands and effects of the corps vest (s. 25). **195** A copy of the rules in print or writing, certified under the hand of the commanding officer as a true copy of the rules whereof her Majesty's approval has been duly notified, is conclusive evidence of the rules of the corps (s. 24), which rules will show when the sum claimed became payable. After summoning the defaulter, and on proof of the complaint, the justices will make an order for payment;—in default of payment, if the sum adjudged including costs do not exceed £5, there will be imprisonment, either instead of or in default of distress. [Forms of Complaint, &c., Nos. 5—8, p. 979, Oke's "*Formulist*," 6th ed.]

Exemptions from Toll.] See these set out in Vol. I., *Note* **484**, tit. "*Volunteer Force.*"

Appeal.] See 26 & 27 Vict. c. 60, s. 48, Vol. I., pp. 829, 830, *Note* **483**.

Grounds for Rifle Practice.] 26 & 27 Vict. c. 65, s. 32, incorporates certain provisions of the 8 & 9 Vict. c. 18, tit. "*Lands Clauses*

26 & 27 Vict. c. 65.
32 & 33 Vict. c. 81.

Act," *ante*, p. 1446), for the purpose of facilitating the acquisition of land; and sect. 37 contains provisions for the stopping up or diverting of footpaths crossing or running inconveniently or dangerously near to such land, on a certificate of two justices, the proceedings being the same as where a private person is desirous of stopping up, &c. a highway under 5 & 6 Will. 4, c. 50 (*ante*, pp. 1422, 1423), except that the justices' certificate is conclusive. This has been amended by 34 & 35 Vict. c. 86, s. 17.

32 & 33 Vict. c. 81, s. 3.

Remedy for Non-delivery of Arms, &c. on Demand.] By 32 & 33 Vict. c. 81, s. 3, "Where any person neglects or refuses, on demand made as hereinafter mentioned (in s. 4), to deliver up any property (whether arms, clothing, appointments, ammunition or public stores), which is public property, or the property of a volunteer corps or administrative regiment, and has been issued to such person or is in his possession or keeping as an officer or volunteer, any justice of the peace may, upon reasonable ground being shown for a suspicion that the property is to be found on any premises, issue a warrant under his hand empowering the person therein named to enter upon such premises and search for the property, and the person so empowered may enter and search accordingly, and shall seize such property, if found, and remove the same with all convenient speed to such place as may be directed by the secretary of state, person, officer, or adjutant who made the demand. Notwithstanding any such seizure and removal, the same penalty may be enforced against any person, and the value of any such property may be recovered from the person neglecting or refusing as aforesaid, in the same manner as it might have been under the principal act if this act had not passed. The jurisdiction under this section may be exercised by any sheriff or magistrate who under the principal act has jurisdiction with respect to the recovery of a penalty." By sect. 4, "A demand may be made for the purposes of this act by the following persons, viz.:—

Sect. 4.

(1.) In any case by one of her Majesty's principal secretaries of state or any person authorized in writing by him:

(2.) In the case of any volunteer and any officer of inferior rank to the person making the demand, by the commanding officer or adjutant of the volunteer corps or administrative regiment to which such property belongs, or to which such volunteer or officer belongs.

The demand may be made by the delivery of a written notice to the person upon whom the demand is made, or by leaving the same at his usual or last known place of abode, or, if no such place is known, by affixing the same at the orderly room of the corps or regiment to which he belongs or belonged, or at the place where notices relating to such corps or regiment are usually affixed."

Jurisdiction of Lieutenants of Counties vested in her Majesty.] See "The Regulation of the Forces Act, 1871," 34 & 35 Vict. c. 86, ss. 6, 7, 9. 34 & 35 Vict. c. 86.

WAR.

The following provisions are in the acts relating to the purchase of ands for the service of the ordnance department and for the security ınd defence of the realm:—

In default of treating, or where the parties do not agree, the per- ons authorized by her Majesty may require two justices to put her ſajesty's officers in possession (5 & 6 Vict. c. 24, s. 19). 5 & 6 Vict. c. 24.

Sect. 1 vested the power of those officers in the secretary of state ır the war department. 18 & 19 Vict. c. 117.

As to the recovery of possession of land vested in the secretary of ate, see 17 & 18 Vict. c. 67; 18 & 19 Vict. c. 117; 22 Vict. c. 12; ıd 25 & 26 Vict. c. 36.

By sect. 7, the secretary of state for war may use all the powers ven to promoters of undertakings by "The Lands Clauses Act, 845," 8 & 9 Vict. c. 18. 23 & 24 Vict. c. 106.

Fortifications, Arsenals and Dockyards.] This act contains pro- sions applicable to settling cases of compensation for lands, &c. quired before two justices, and apportionment of rents, &c. *Vide* .13, 14, 25, 26, 41, amended by 28 & 29 Vict. c. 65. The 23 & 24 ct. c. 112, is incorporated with the 5 & 6 Vict. c. 94 and 18 & 19 ct. c. 117. 23 & 24 Vict. c. 112.

WATERWORKS FOR TOWNS.

"The Waterworks Clauses Acts, 1847," 10 & 11 Vict. c. 17, the tent of which is shown in *Note* 485, Vol. I. pp. 831, 832, provides various matters being heard and determined before justices, :— 10 & 11 Vict. c. 17.

The mode of determining questions of compensation with regard lands purchased or taken is to be the same as under the 8 & 9 ct. c. 18 (tit. "*Lands Clauses Act,*" *ante*, p. 1446), s. 6.

Correction of errors and omissions in plans and books of reference two justices (s. 7).

Undertakers to make compensation for damages done in exercise powers of act in sinking wells, making reservoirs, &c. (s. 12). See *v River Company* v. *Johnson*, 29 L. J. (N. S.) M. C. 93; 1 Law T., S. 295.

Differences as to the construction of accommodation works to be led by two justices (s. 16), as well as the expense of executing works (s. 17).

Compensation to mine owners for damage done by waterworks to settled by justices (see s. 22).

10 & 11 Vict. c. 17.

Differences respecting mode of laying open streets, sewers, &c. to be determined by two justices (s. 31).

Expenses of reinstating streets, &c. opened to be recovered as damages (s. 34); see *infra*.

Disagreement between commissioners and the undertakers as to rates and terms of supplying water for cleansing sewers, watering streets, &c., to be settled by two justices (s. 37).

Difference of opinion as to proper position or number of fire plugs to be settled by two justices (s. 38).

Dispute as to charge for pipes supplied to occupiers to be settled by two justices (s. 44).

Dispute as to strength and material of service pipes laid by owners and occupiers themselves to be settled by two justices (s. 48), as well as to the manner in which such pipes shall communicate with the public pipes (s. 49).

Expenses of examination as to the fouling of the water by gas, and the injury done to the water, to be ascertained and recovered as damages (s. 67); see *infra*.

Dispute as to value of premises supplied with water to be determined by two justices (s. 68).

Water rates under 20*l.* to be recovered as damages (s. 74).

Recovery of Damages.] Damages are to be ascertained and recovered as under the 8 & 9 Vict. c. 20 (s. 85). See tit. "*Railways*," *ante*, pp. 1512, 1513.

26 & 27 Vict. c. 93.

Dangerous Reservoirs.] Two justices may inquire into complaints of dangerous state of reservoirs (s. 3), and order immediate repair (s. 4), or order undertakers to repair it (s. 5), of which a form is given (s. 6); and the costs of the order are also recoverable, or if the complaint not sustained, the complainant to pay undertakers' costs (see ss. 7—10).

WEIGHTS AND MEASURES.

5 & 6 Will. 4, c. 63.

Appointment of Inspector.] The appointment of inspectors of weights and measures in counties is with the county quarter sessions (41 & 42 Vict. c. 49, s. 43). In municipal boroughs, incorporated under 5 & 6 Will. 4, c. 76, to which a separate court of quarter sessions has been granted [*or* having a separate commission of the peace, 24 & 25 Vict. c. 75, s. 6], the town council have that power (22 & 23 Vict. c. 56, s. 4).

Justice or Inspector may enter Shops and examine Weights, &c.] By the 41 & 42 Vict. c. 49, s. 48, "every inspector under this act authorized in writing under the hand of a justice of the peace, also every justice of the peace, may at all reasonable times inspect all weights, measures, scales, balances, steelyards and weighing machines within his jurisdiction which are used or in the possession

of any person, or on any premises for use for trade, and may compare every such weight and measure with some local standard, and may seize and detain any weight, measure, scale, balance, or steelyard, which is liable to be forfeited in pursuance of this act, and may for the purpose of such inspection enter any place, whether a building or in the open air, whether open or inclosed, where he has reasonable cause to believe that there is any weight, measure, scale, balance, steelyard, or weighing machine which he is authorized by this act to inspect." See *Note* 487, Vol. I. pp. 836, 837. A general authority to the inspector is sufficient, and it is not necessary that he should also have a special authority upon each particular occasion (*Hutchings* v. *Reeves*, 11 L. J. (N. S.) M. C. 109; 2 Mees. & W. 747; *Kershaw* v. *Johnson*, 1 Car. & K. 329). 5 & 6 Will. 4, c. 62.

WORKSHOPS REGULATION.

Fan to be used in Grinding.] By sect. 8 of "The Workshop Regulation Act, 1867," the justices having authority to inflict a penalty under this act may, in addition to or instead of inflicting the penalty for failing to provide a fan, &c. in compliance with order of inspector of factories, make an order directing that within a certain time to be named in such order the occupier of any workshop, where grinding glazing, or polishing on a wheel, or any other process is carried on by which dust is generated and inhaled by the workmen to an injurious extent, do provide a fan or other mechanical means approved by the home secretary for preventing such inhalation [Form of Order, No. 4, Oke's "*Formulist*," 6th ed. p. 438];—and the justices may upon application enlarge the time appointed for the adoption of the means directed by the order, a penalty of 1*l.* per day being imposed for non-compliance with the order. 30 & 31 Vict. c. 146.

Entry and Examination of Workshops.] By sect. 9, if, on the complaint of any officer of health, inspector of nuisances, or other officer appointed by a local authority, or of any superintendent of police, it appears to any justice of the peace that there is reasonable cause for believing that any of the provisions of this act or of "The Sanitary Act, 1866," are contravened in any workshop, such justice, by order under his hand, may empower the complainant to enter into such workshop at any time within forty-eight hours from the date of such order, and to examine such workshop;—and any person so empowered may examine, touching any matter within the provisions of this act or of "The Sanitary Act, 1866," so far as relates to such workshop, any person whom he finds there.

WRECK AND SALVAGE.

I. *Inquiries into Wrecks, &c.*
II. *Arbitration on Salvage Claims.*

I. *Inquiries into Wrecks, &c.*

17 & 18 Vict. c. 104.

Inquiry by Officer of Coast Guard.] By "The Merchant Shipping Act, 1854," 17 & 18 Vict. c. 104, s. 432, in any of the cases following, viz.:

Whenever any ship is lost, abandoned or materially damaged on or near the coasts of the united kingdom;

Whenever any ship causes loss or material damage to any other ship on or near such coasts;

Whenever by reason of any casualty happening to or on board of any ship on or near such coasts, loss of life ensues;

Whenever any such loss, abandonment, damage or casualty happens elsewhere, and any competent witnesses thereof arrive or are found at any place in the united kingdom;

the inspecting officer of the coast guard, or the principal officer of customs, or any other person appointed for the purpose by the board of trade, may make inquiry respecting such loss, &c.

Formal Investigation before Justices.] By sect. 433, if it appear to such officer or person, either upon or without any such preliminary inquiry, that a formal investigation is requisite or expedient,—or if the board of trade so directs,—he is to apply 196 to any two justices or to a stipendiary magistrate to hear the case;—197 and such justices or magistrate shall thereupon proceed to hear and try the same, and shall for that purpose, so far as relates to the summoning of parties, compelling the attendance of witnesses and the regulation of the proceedings, have the same powers as if the same were a proceeding relating to an offence or cause of complaint upon which they or he have power to make a summary conviction or order, or as near thereto as circumstances permit;—198 and it shall be the duty of such officer or person to superintend the management of the case and to render such assistance to the justices or magistrate as is in his power;—and upon the conclusion of the case, the justices or

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196 Form of Application, Oke's "*Formulist*," 6th ed. p. 980.

197 Where the stipendiary magistrate is a member of a local marine board, the inquiry is to be made before him, and he is to be paid a remuneration out of the Mercantile Marine Fund (s. 435).

198 The practice in summary convictions and orders will be found in Vol. I. However, by 25 & 26 Vict. c. 63, s. 65, the 3rd sect. of the 21 Vict. c. 43, Id. p. 266 (except as to the justices' clerk's fees), is not to apply to proceedings under the direction of the board of trade, or under the Merchant Shipping Acts. *Vide* Form of Summons to a Party or Witness, No. 2, Oke's "*Formulist*," 6th ed. p. 981; also a Form of Examination of Witnesses, No. 4, p. 981.

agistrate are to send a report to the board of trade, containing a ll statement of the case, and of their or his opinion thereon, companied by such report of or extracts from the evidence, and ch observations, if any, as they or he may think fit. 199 17 & 18 Vict. c. 104.

Appointment of Nautical Assessor.] By sect. 434, in cases where utical [or engineering, 25 & 26 Vict. c. 63, s. 23] skill and knowlge are required, the board of trade, either at the request of the stices or magistrate, or at its own discretion, may appoint some rson [or persons] of nautical [or engineering] skill and knowlge to act as assessor [or assessors, 25 & 26 Vict. c. 63, s. 23] to e justices or magistrate;—and such assessor shall, upon the nclusion of the case, either signify his concurrence in their port by signing the same, or if he dissents therefrom shall signify ch dissent and his reasons therefor to the board of trade.

Costs of Investigation.] By sect. 436, the justices or magistrate ay make such order with respect to the costs of any such investi-tion or any portion thereof as they or he may deem just,—and ch costs shall be paid accordingly,—and shall be recoverable in e same manner as other costs incurred in summary proceedings fore them or him;—200 and the board of trade may, if in any se it thinks fit so to do, pay the expense of any such investiga-n, and may pay to such assessor as aforesaid such remuneration it thinks fit.

Examination as to Ships in Distress.] By sect. 448, any receiver, or in his absence *any justice of the peace*,—shall, as soon as conniently may be, examine upon oath any person belonging to any ip which may be or may have been in distress on the coasts of e United Kingdom, or any other person who may be able to give y account thereof, or of the cargo or stores thereof, as to the llowing matters; (that is to say,)—

(1.) The name and description of the ship;

(2.) The name of the master and of the owners;

(3.) The names of the owners of the cargo;

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199 *Vide* Form of Report, No. 5, Oke's "*Formulist*," 6th ed. p. 983. y 17 & 18 Vict. c. 104, s. 438, the justices or magistrate may require e master or mate possessing a certificate of competency or service hose conduct is called in question, &c., to deliver such certificate be held till the close of the investigation [under the penalty of 50*l.*, 5 & 26 Vict. c. 63, s. 24]; and by 25 & 26 Vict. c. 63, s. 23, sub-s. 1, the ower given by sect. 242 of 17 & 18 Vict. c. 104, to the board of trade to ncel or suspend the certificate, if it appear that the loss or abandonent of or serious damage to the ship, or loss of life, has been caused by e wrongful act or default of such master or mate, is vested in and may e exercised by the magistrates by whom the case is investigated, if one ssessor expresses his concurrence in the report.

200 *Query*, how these costs are intended to be recovered; as there is o provision in the 11 & 12 Vict. c. 43, for recovery of costs alone, xcept where a case is dismissed.

17 & 18 Vict. c. 104.

"4. The ports and places from and to which the ship was bound;
5. The occasion of the distress of the ship;
6. The services rendered;
7. Such other matters relating to such ship, or to the cargo on board the same, as the receiver or justice thinks necessary;

and such receiver or justice is to take the examination down in writing, 201—and to make two copies of the same,—of which one to send one to the board of trade, and the other to the secretary of the committee for managing the affairs at Lloyd's in London, to be placed by the said secretary in some conspicuous situation for the inspection of persons desirous of examining the same;—and for the purposes of such examination every such receiver or justice shall have all the powers given by the first part of the act to inspectors appointed by the board of trade. 202

Recovery of Value of Wreck in Possession of Stranger.] By s. 450, double the value of wreck taken possession of by persons other than the owner, and not delivered by him to the receiver, is to be recovered in the same way as a penalty of like amount,—see tit. "*Merchant Shipping*," Vol. I. p. 580.

Cutting up Cables.] Dealers to make a declaration before a justice, in order to a justice or receiver granting a permit for cutting up a cable (s. 481). [Forms of Declaration and Permit, Nos. 177—178, pp. 285—286, Oke's "*Formulist*," 6th ed.] Justices may on application on oath, grant a warrant against a marine store dealer to produce a cable or other like article, and to allow an examination of his book of entries required to be kept (s. 482). [Form, No. 179, p. 286, Oke's "*Formulist*," 6th ed.]

Damage by Rioters.] In case of vessels stranded, &c., being plundered by tumultuous assemblages, the hundred is to be liable for the damage, in the same manner as damage to buildings by a riotous assemblage is provided for by the 7 & 8 Geo. 4, c. 31, s. 477, see tit. "*Hundred*," *ante*, p. 1241).

II. *Arbitration on Salvage Claims.*

By 17 & 18 Vict. c. 104, s. 476, the High Court of Admiralty may decide on all salvage cases, whether on sea or land.

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201 This may be in the same form as on an investigation. See Form No. 5, Oke's "*Formulist*," 6th ed. p. 982; and should show the following particulars: the tons register of the ship, by whom owned, the time of sailing, the number of the crew and where bound to, what the cargo consisted of, and by whom shipped and to whom consigned, where ship or cargo insured and in what sums respectively; and then a narrative embracing explicitly the occasion and date of distress of ship, the exact nature of casualty, the services rendered, and such other matters and circumstances relating to the ship and cargo as the justice may consider necessary.

202 *Vide* sect. 15, which gives power to summon witnesses. *Vide* Form, No. 7, Oke's "*Formulist*," 6th ed. p. 981.

By sect. 458,—whenever any ship or boat is stranded or otherwise distress on the shore of any sea or tidal water situate within the its of the United Kingdom, and services are rendered by any rson, 17 & 18 Vict. c. 104.

(1.) In assisting such ship or boat;

(2.) In saving the lives of the persons belonging to such ship or boat;

(3.) In saving the cargo or apparel of such ship or boat, or any portion thereof;

d whenever any wreck is saved by any person other than a eiver within the United Kingdom: there shall be payable by owners of such ship or boat, cargo, apparel, or wreck, to the rson by whom such services or any of them are rendered, or by om such wreck is saved, a reasonable amount of salvage, together th all expenses properly incurred by him in the performance of h services or the saving of such wreck, the amount of such salvage d expenses (which expenses are included under the term salvage) be determined in case of dispute in manner herein mentioned. sect. 459, salvage for life is to have priority of other claims, d in certain cases may be paid by board of trade out of Mercan- Marine Fund. [The 24 Vict. c. 10, s. 9, extends these provi- ns to salvage for life from British ships or boats wheresoever the vices are rendered, and from foreign ships or boats where the vices are rendered, wholly or partly in British waters, and see & 26 Vict. c. 63, s. 49, *Note* **203**, *infra.*]

By sect. 460, disputes with respect to salvage arising within the undaries of the cinque ports are to be determined in the manner which they have hitherto been determined;—but whenever any pute arises elsewhere in the United Kingdom between the ners of any ship, boat, cargo, apparel or wreck, and the salvors, to the amount of salvage, and the parties cannot agree as to the tlement thereof by arbitration or otherwise, if the sum claimed es not exceed 200*l.*, such dispute shall be referred to the arbitra- n of any two justices of the peace resident as follows:—in case wreck, resident at or near the place where such wreck is found; in case of services rendered to any ship or boat, or to the persons, rgo or apparel belonging thereto, resident at or near the place ere such ship or boat is lying, or at or near the first port or place the United Kingdom into which such ship or boat is brought ter the occurrence of the accident by reason whereof the claim to lvage arises, [and is not recoverable by action; see *Atkinson* v. *oodall*, 31 L. J. (N. S.) M. C. 174; 6 Law T., N. S. 361]:—but if e sum claimed [antecedently to any proceedings; *The William d John*, 32 L. J. (N. S.) M. C. 163; 8 Law T., N. S. 56] exceeds 0*l.*, the dispute may, with consent, be referred also to such stices, or otherwise by the Court of Admiralty [see 25 & 26 Vict.

[illegible] s. 43, s. 49 Note 203. [illegible]—and every such dispute [illegible] heard and adjudicated upon on the application either of the [illegible] or of the owner of the property salved, or of their respective [illegible] By sect. 4[illegible] the justices may either themselves determine [illegible] dispute, with power to call to their assistance any person [illegible] with maritime affairs as assessor:—or they may, if a difference [illegible] opinion arises between them, or without such difference, [illegible] think fit, appoint some person conversant with maritime [illegible] umpire to decide the point in dispute:—and such justices [illegible] umpire shall make an award as to the amount of salvage [illegible] within the following times, viz.—the justices within [illegible] hours after such dispute has been referred to them, and the [illegible] within forty-eight hours after his appointment,—with power [illegible] theless for them, by writing under their or his hand, to ex[illegible] time. The costs of the arbitration are to be paid in such [illegible] and proportions as the justices or umpire shall direct in [illegible] s. 4[illegible]. The justices or umpire may call for docum[illegible] administer oaths (s. 4[illegible]). 203

Appeal.] An appeal is given against the award to the [illegible] Admiralty (s. 4[illegible]): see *The Mary Ann*, 12 Law T., N.S. [illegible] when a copy of the justices' proceedings are to be trans[illegible] the court (s. 4[illegible]).

Payment and Apportionment of Salvage.] This duty [illegible] the receiver of the district (see ss. 466—470), or with the [illegible] having admiralty jurisdiction (s. 49[illegible]). See 31 & 32 Vict. [illegible]

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203 These provisions as to the summary jurisdiction of [illegible] have been extended and amended by "The Merchant Ship[illegible] Amendment Act, 1862," 25 & 26 Vict. c. 63, s. 49, which [illegible] they shall be amended as follows: (that is to say,) (1) Shall ex[illegible] cases in which the value of the property saved does not exceed [illegible] well as to the cases provided for by the 17 & 18 Vict. c. 104: [illegible] held to apply whether the salvage service has been rendered [illegible] limits of the United Kingdom or not: (3) One of her Majesty's [illegible] secretaries of state may appoint out of the justices for any [illegible] county a rota of justices by whom jurisdiction in salvage [illegible] exercised: (4) When no such rota is appointed, the salvors [illegible] addressed to the justices' clerk, may name one justice, and [illegible] the property saved in like manner, name the other: (5) If [illegible] fails to name a justice within a reasonable time, the case may [illegible] two or more justices at petty sessions: (6) Any stipendiary [illegible] and also....any county court judge,....may exercise the same [illegible] tion in salvage cases as is given to two justices: (7) One of her [illegible] principal secretaries of state may determine a scale of costs to [illegible] in salvage cases by any justices or court: (8) All the provis[illegible] 17 & 18 Vict. c. 104, relating to summary proceedings in [illegible] and to the prevention of unnecessary appeals in such cases, [illegible] so far as the same are altered by this act, extend and apply [illegible] proceedings, whether under that act or this act, or both. [illegible] "*Formulist*," 6th ed. pp. 963, 964, for forms of application [illegible] adjudicate on dispute, summons and award of justices. As [illegible] services rendered by her Majesty's ships, see sects. 484—4[illegible].

& 33 Vict. s. 51, as to the county courts having admiralty juris- 17 & 18 Vict. c. 104.
tion.

Disputed Title to Wreck.] By sect. 472, if any dispute arises be-
een the receiver and any admiral, vice-admiral, lord of any manor
other person as to the validity of his title to wreck,—or if divers
sons claim to be entitled to wreck found at the same place,—the
ter in dispute may be decided by two justices in the same
nner in which disputes as to salvage coming within the jurisdic-
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e acts 44 Geo. 3, c. 54, and 57 Geo. 3, c. 44, are still in force
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o. 3, c. 44, s. 3, for matters to be done by justices.

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TO THE TWO VOLUMES.

*** *The letter and figures,* O. 5, p. 522, *signify* Offence number 5, page 522, *and have reference to Summary Convictions* (Chaps. II. and III. of Part I., Vol. I.) *as well as to Indictable Offences* (Chap. II. of Part II., Vol. II.). *The pages are those in which the Offences are described, it being unnecessary to refer to the pages containing the various stages of the proceedings, the penalty, appeal, &c., and in Indictable Offences, where to be tried, as to bail, the punishment, costs, &c., as those minutiæ are so placed as to be seen at the same glance with the description of the offence, and the Notes are at the foot of the pages to which they relate. The letter* n. *means a note.*

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